

11

11

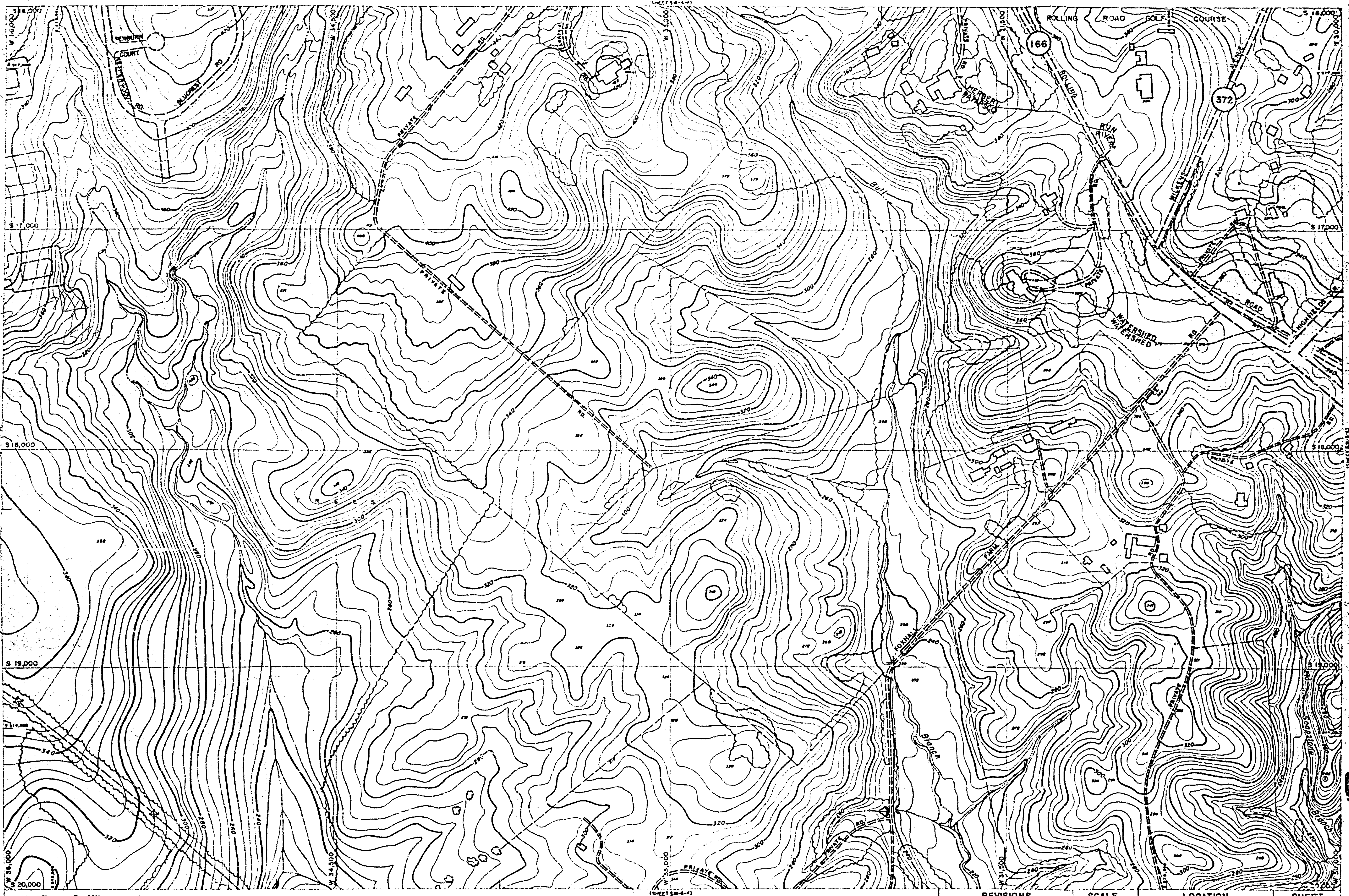
5'8"

1.5"

1"

7"

2"



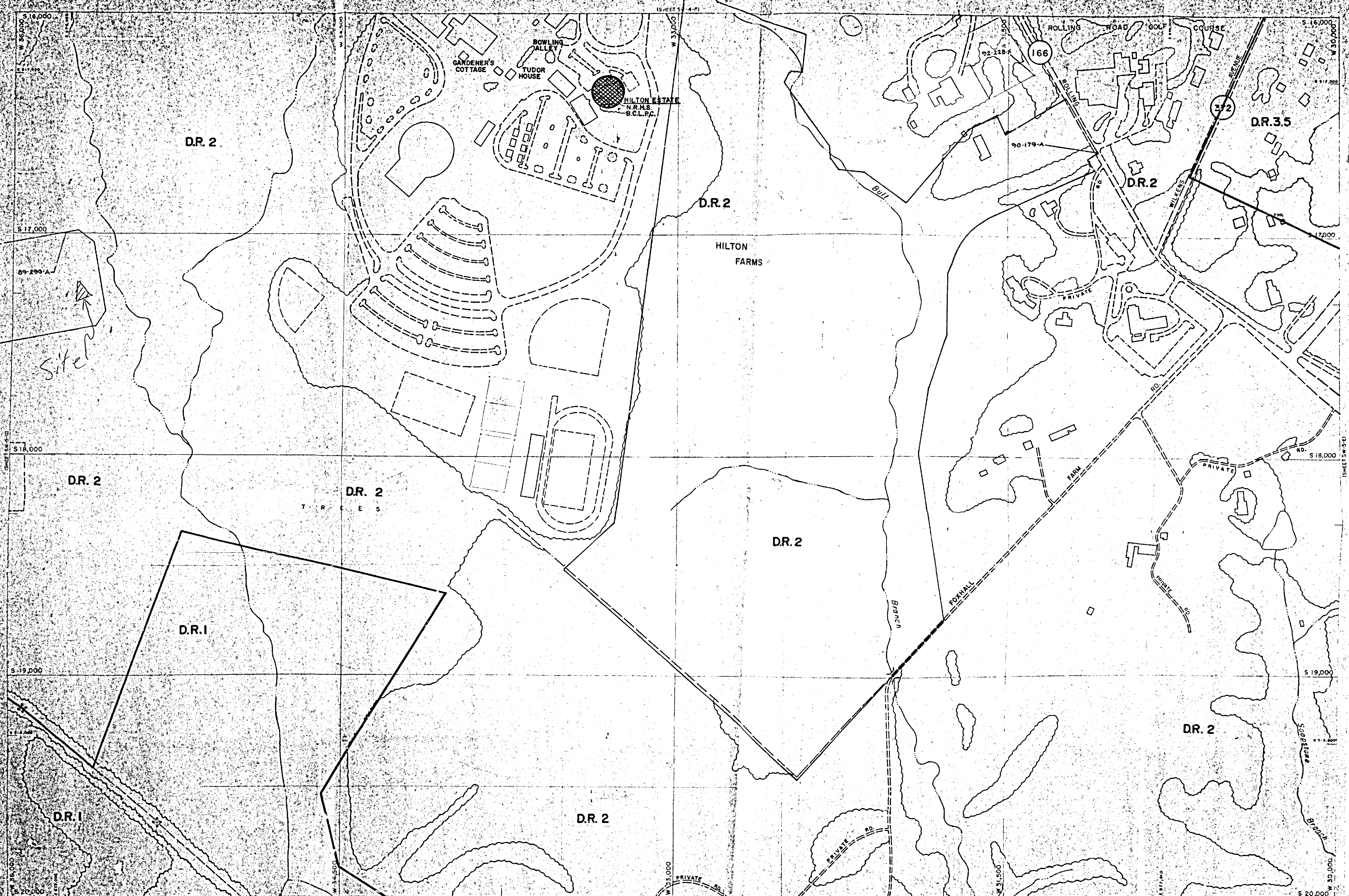
H-SE G-SW
D-NE C-NW

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200'	PATAPSCO STATE PARK VICINITY	54
302	3/6/85	DATE OF PHOTOGRAPHY APRIL 1953		
Topography Compiled By Photogrammetric Methods AERO SERVICE CORPORATION-PHILADELPHIA, PA.				

#484

94-4498-A-864-42



1988 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 12, 1988
 Ord. Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88
 Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
 Adopted by the Baltimore County Council
 Oct. 15, 1992
 Ord. Nos. 152-92, 153-92, 154-92, 155-92, 156-92, 157-92, 158-92, 159-92
 Chairman, County Council

SCALE 1" = 200'	LOCATION PATAPSCO STATE PARK VICINITY	SHEET SW 5-F
DATE OF PHOTOGRAPHY JANUARY 1986		

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
 TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
 BY RICHARDSON, INC. BALTIMORE, MD. 21218

#484

94-498A

Petitioner's Ex #3

Public Hearing for eight foot window to property line setback
for 19 Basswood Court

We present the following in addition to the previous submittal:

I Existing window to property line variance is really 4', not 14'

1. As the attached drawing shows, the developer requested and was granted 6' building to property line setbacks for the house. Why would one ask for 6' setbacks for the building and any greater distance for the windows which are in the walls of the building.

2. One must conclude that (as was pointed out by an associate at the zoning department) the '1' in 14 was placed in error during recording and that a '4' foot window setback variance was requested and granted.

3. The seller of the lot, Diversified Homes, believed and represented that a '4' foot window setback existed on the lot.

II Impossible house placement on lot.

The combination of steepness of grade (2.1) and poor subsoil conditions (road compaction was bearing) absolutely precluded house from being placed any further from property line. Please see attached drawing.

III The package was previously reviewed.

As is normal and required by the County the full set of house plans along with a complete plot plan showing the house siting were submitted to ZADM for review and were approved for construction.

[Additionally, we would like to point out that we believe the previous decision regarding this matter to be valid based on due process (i.e. complainants letter was received three full days after the closing date posted on the property and the decision issued forth after this fact).]

IV Severe hardship and practical difficulty.

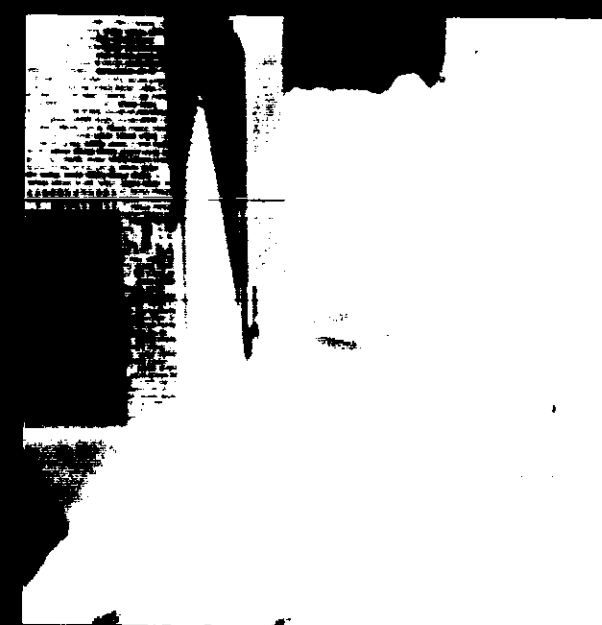
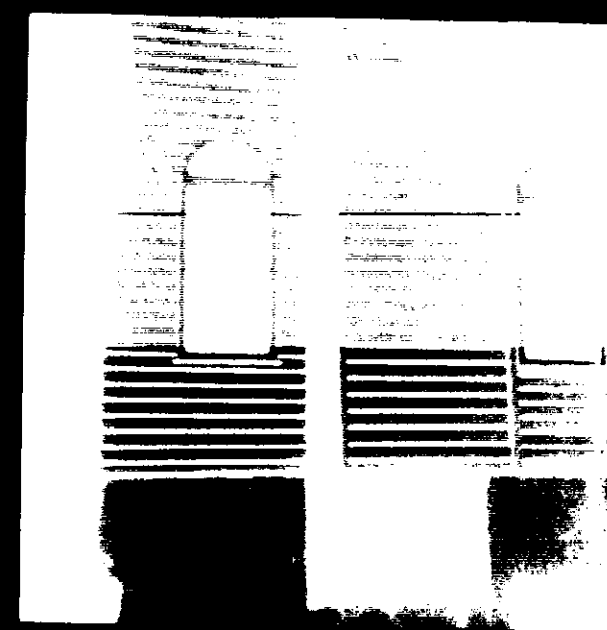
Had the variance not been granted the required remedy would represent significant hardship and practical difficulty to the resident as the majority of the windows on that side of the home are the only windows for the third bedroom in the house. These, of course, are legally required for emergency egress.

V Existing zoning calls for a minimum of 18 feet between facing windows of lot 21 and 22. There are no windows in the complainants dwelling which face the windows in question, and the closest window on the back of the house is 22 feet away, meeting the spirit of the rule.

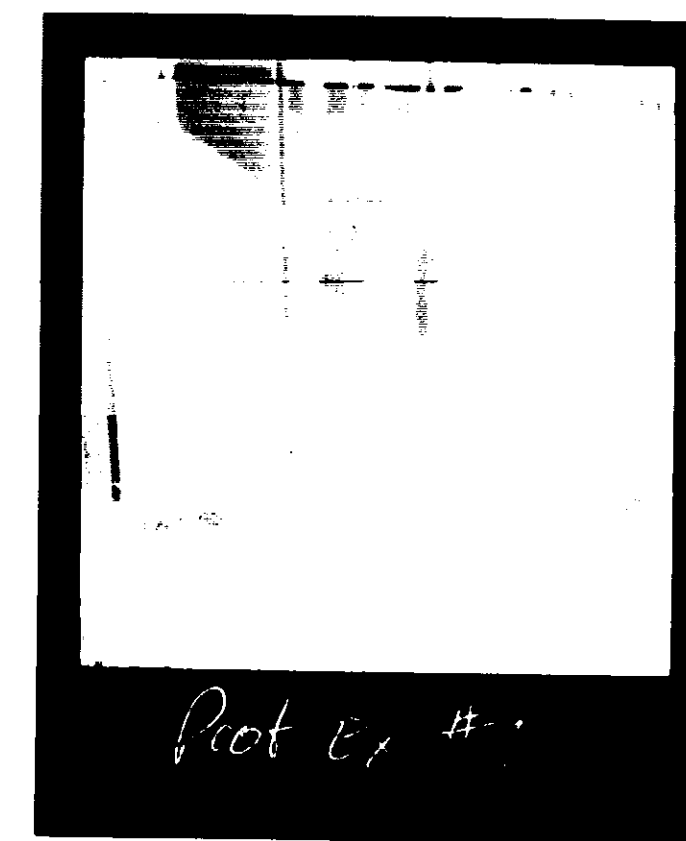
Respectfully, Evelyn Kumoji

Pet Ex #4

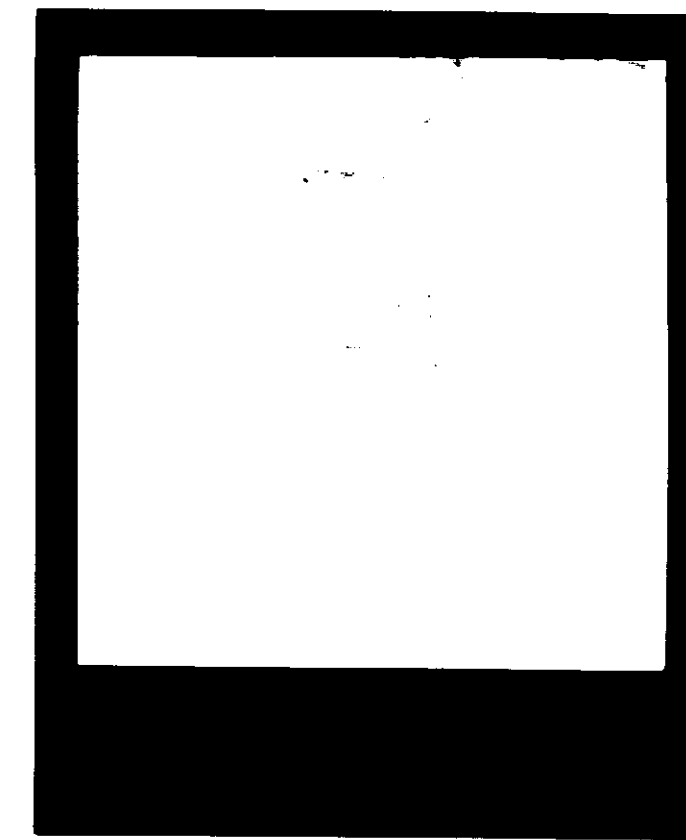
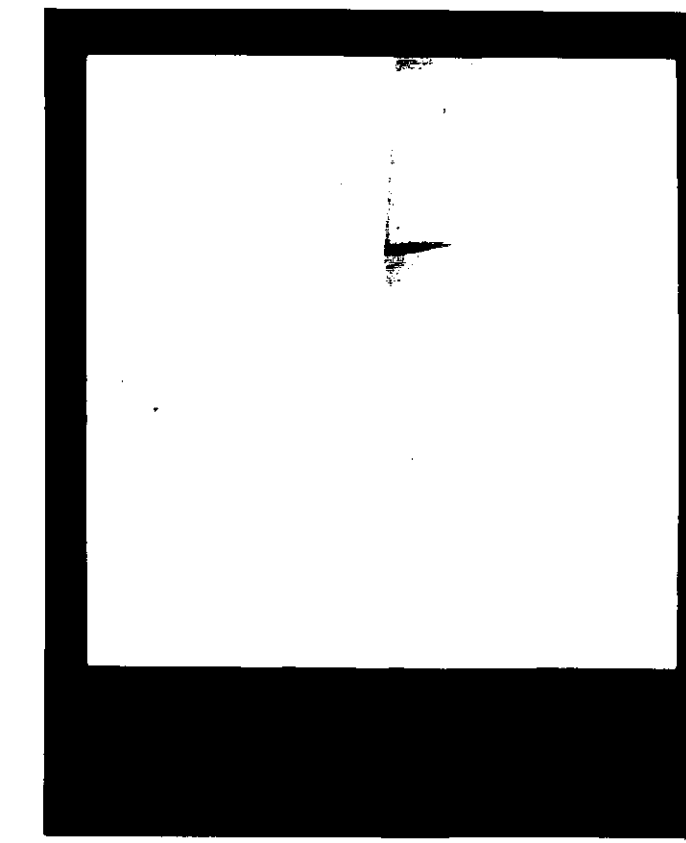
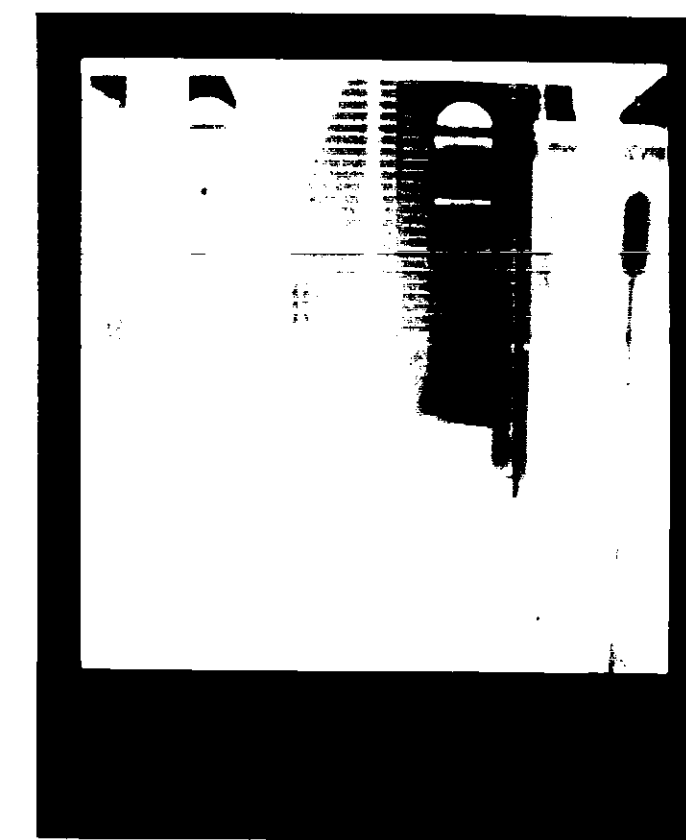
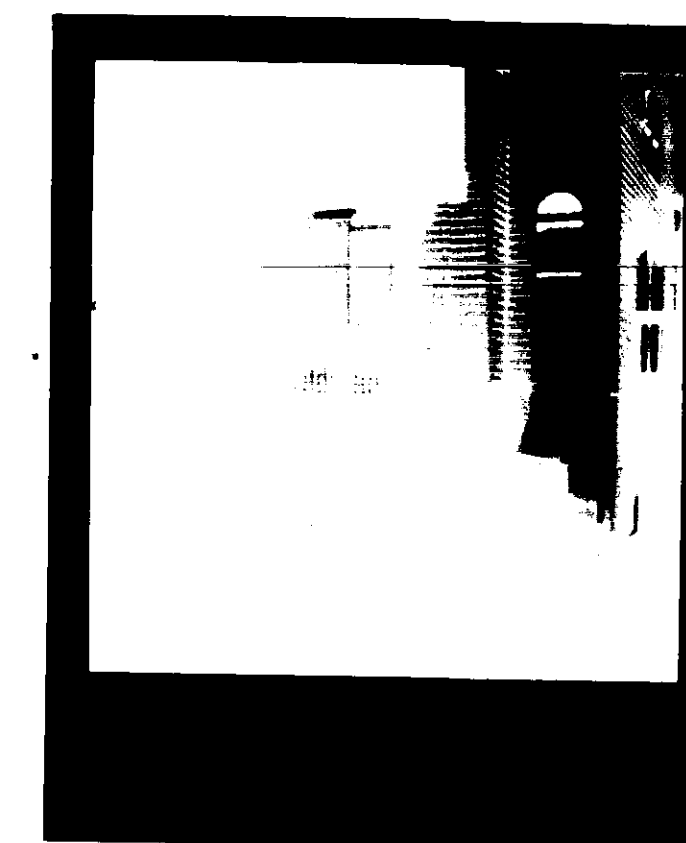
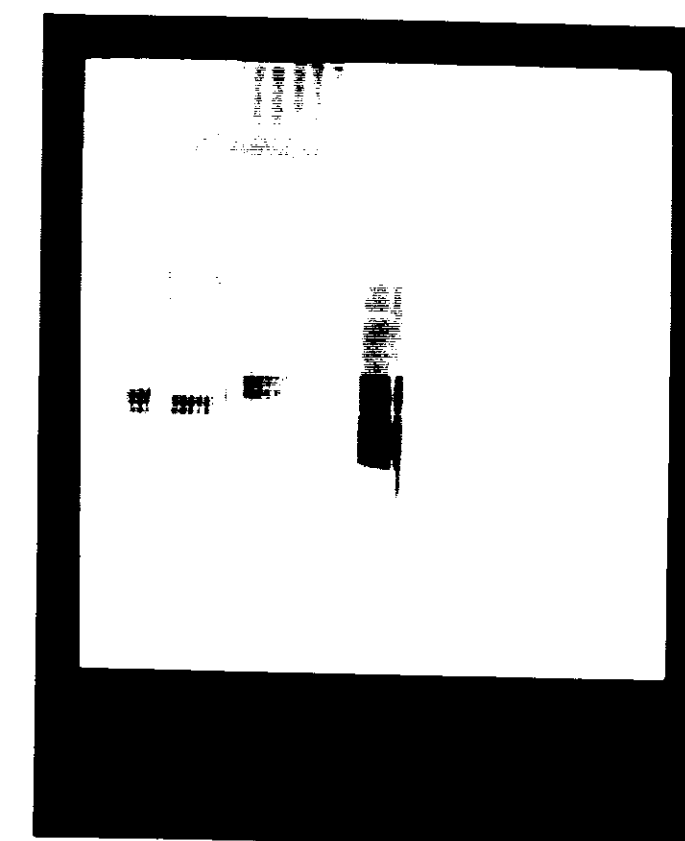
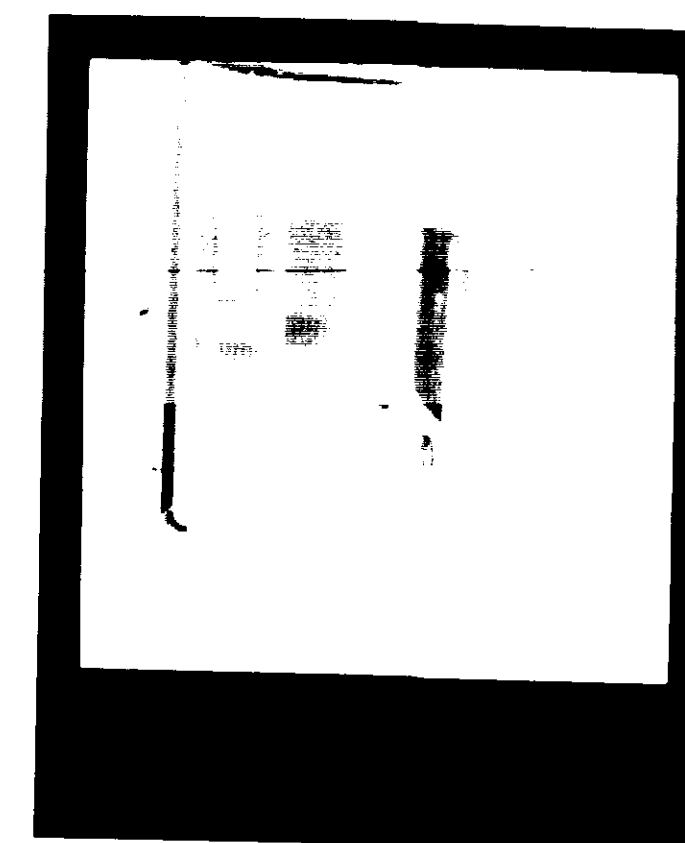
94-498

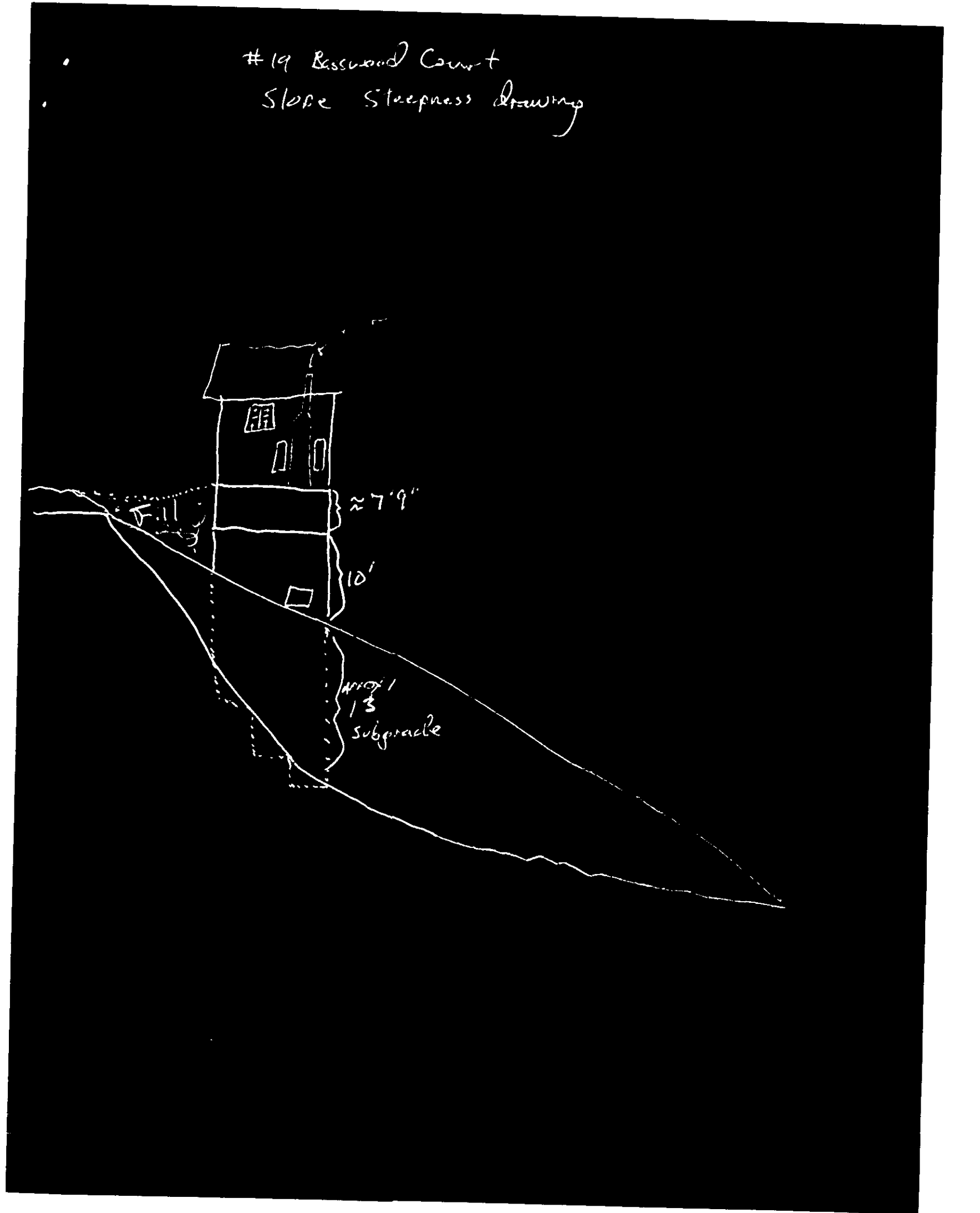
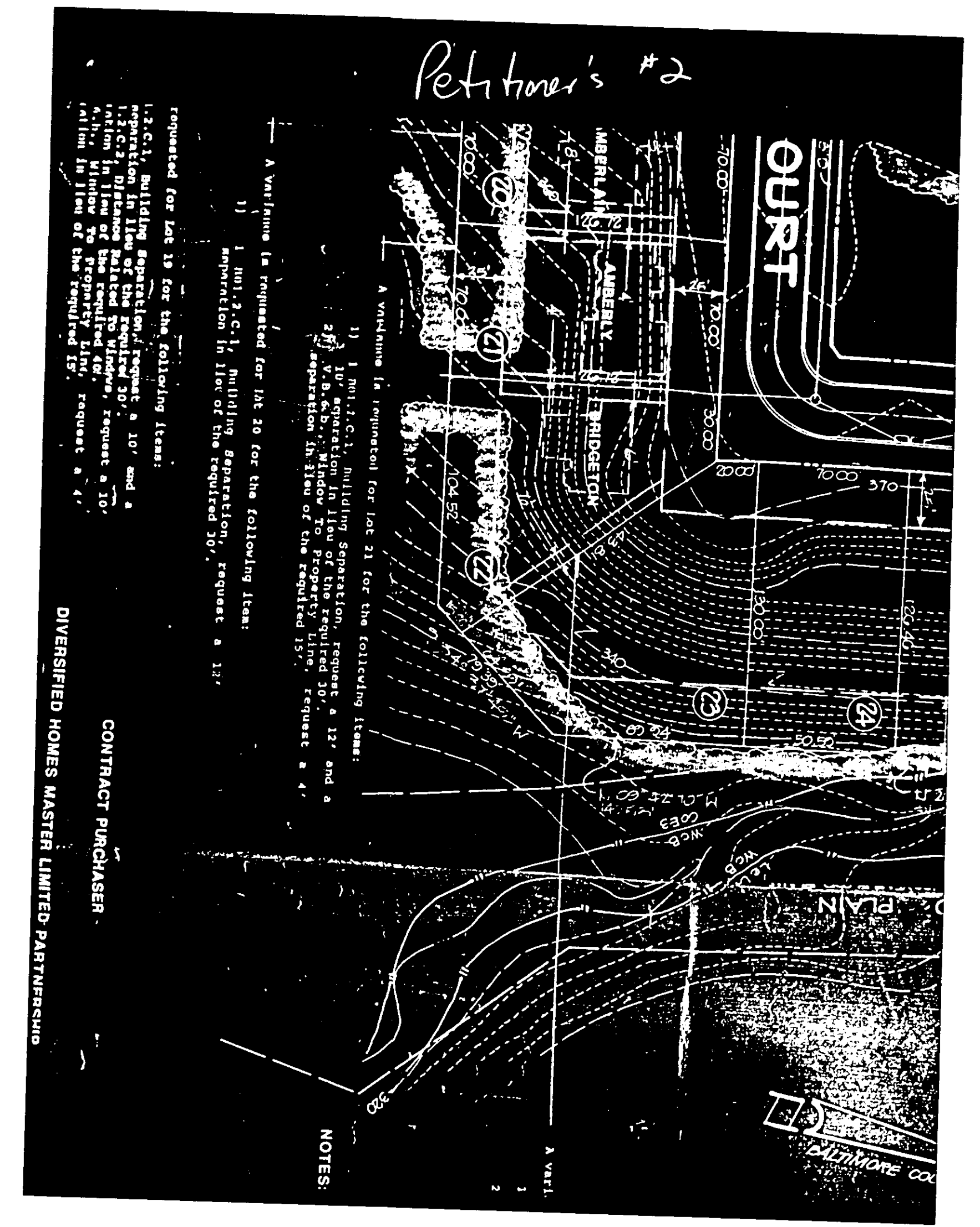
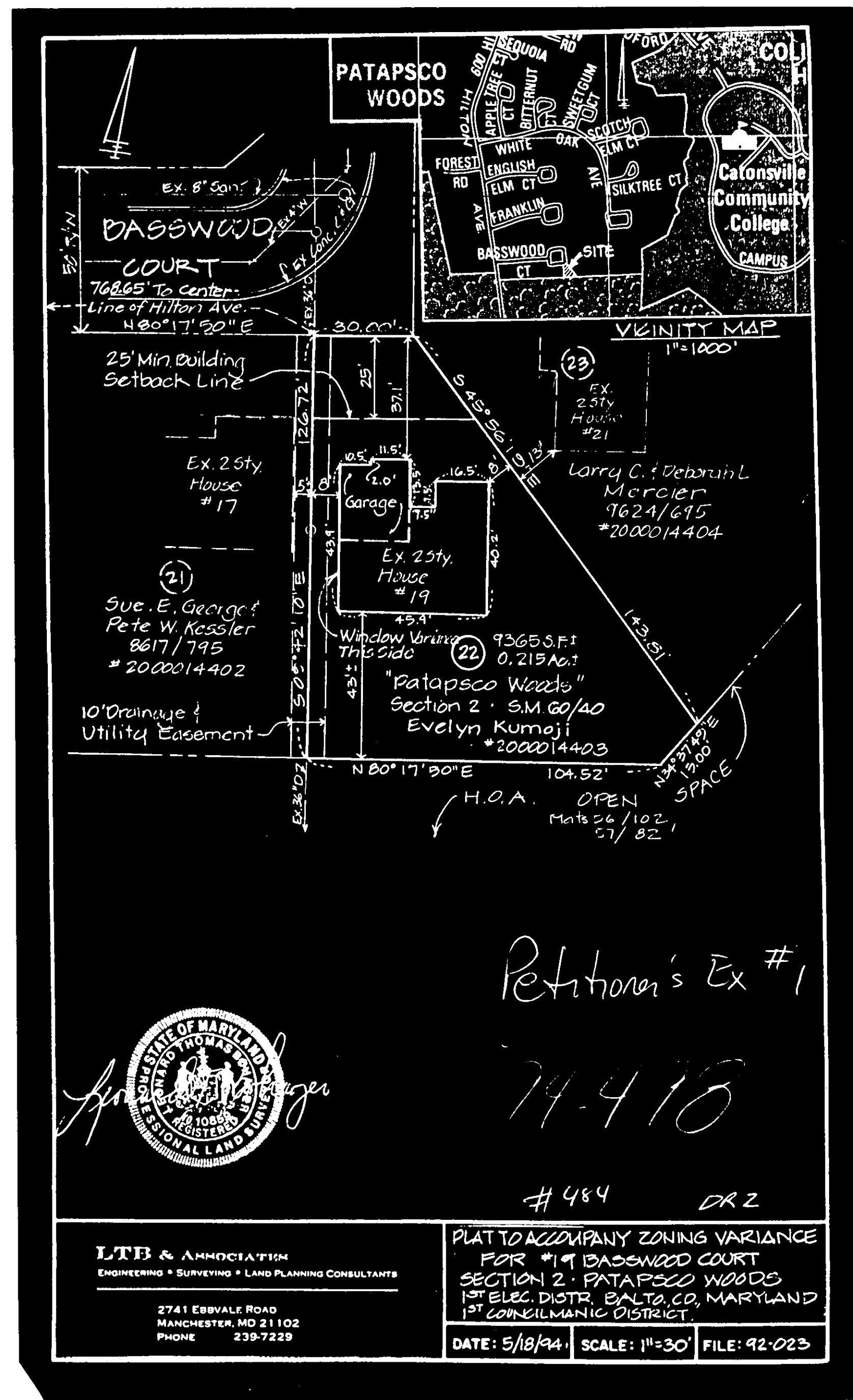
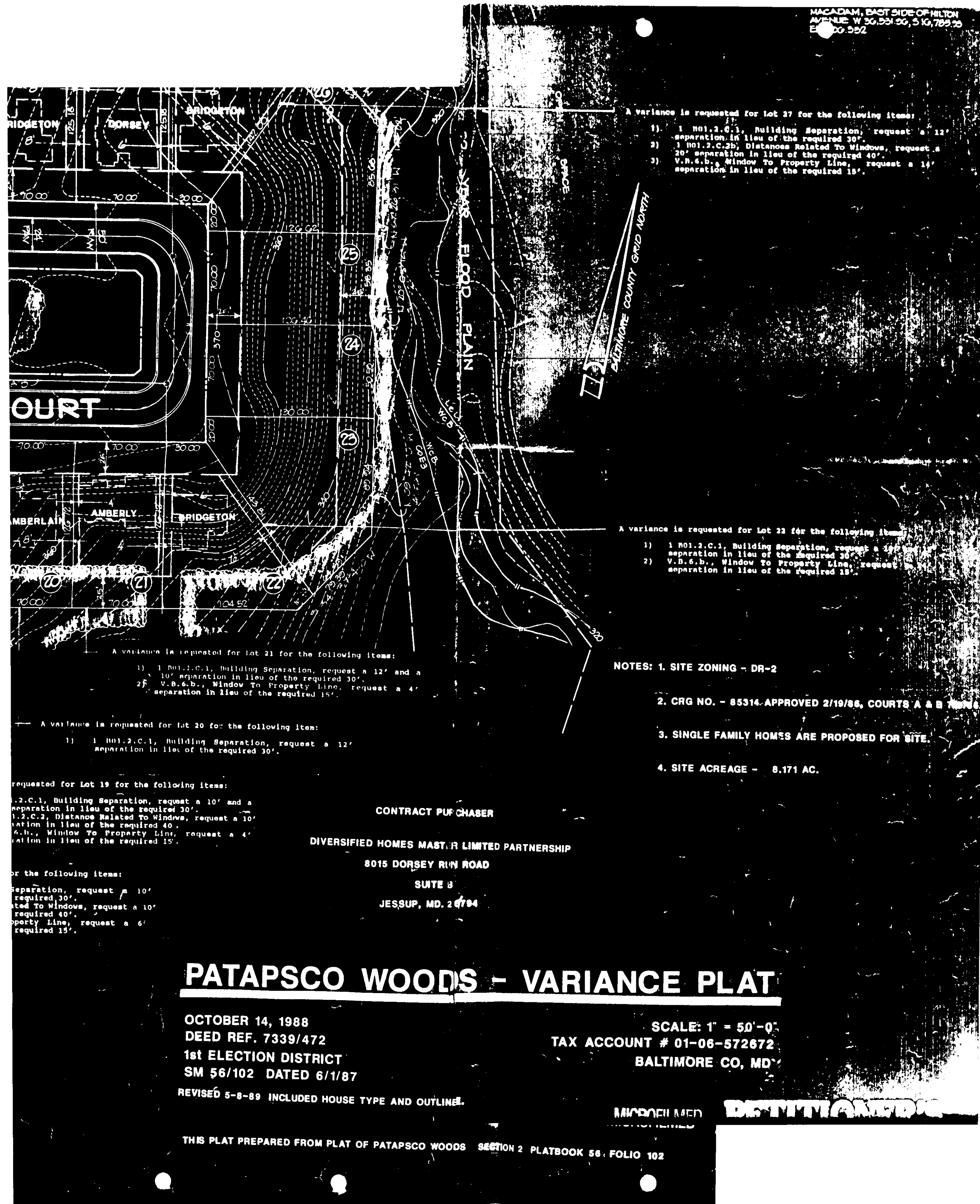


Petitioner's
Exhibits 1-9
(9 photos)
Case # 94-498-A



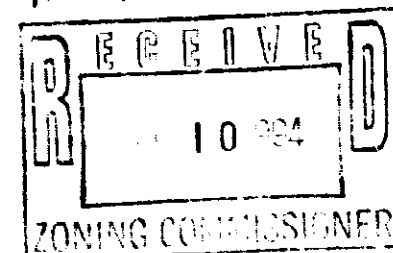
Pet Ex #1





July 5, 1994

Mr. Arnold Jablon
Zoning Commissioner
ZADM
111 W. Chesapeake Ave.
Room 109
Towson, MD 21204



Dear Mr. Jablon,
I am writing concerning a definite violation regarding my residence and its adjoining property.
The case dates back to July 29, 1993 when I spoke personally to Mr. Al Hill (Baltimore Co. Housing Inspector) concerning violations to my property. Mr. Hill advised me to contact ZADM which I did on July 30, 1993, August 16, 1993, September 15, 1993 and November 19, 1993. Finally, I received an acknowledgment notice on November 16, 1993. The case (C-94-1087) was assigned to Mr. Kevin Connor (Baltimore Co. Zoning Inspector) and I met with him, at my home, January 31, 1994. Months later on April 14, 1994 I phoned ZADM for status on my case. I spoke with Mr. L. Wasilewski and he stated that he could not find my file or case. On April 18, 1994 Mr. Connor telephoned me and said he would 'look into it'. April 25, 1994 a letter was sent to me (copy) from Mr. Connor to Mr. Brian Macari (the builder of the adjoining property) stating that he was in violation and was required to file a variance. A copy of that letter is available to you, according to Mr. Connor, contained in my case file. I would like to meet with you concerning these recognized violations and have them rectified as soon as possible. Thank you for your attention. I am awaiting your earliest reply.

Sincerely,

Dr. Pete W. Kessler
Dr. Pete W. Kessler
17 Basswood Court
Catonsville, MD 21228-5870
(410) 788-7259

NOTE: original case no.-
C-94-1087
updated case no.-
94-198A



08 10 94 11:05 CESSIA S PATAH

8/10/94
TO TK - filed
in chief of communications

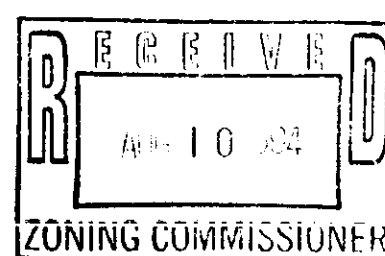
COVER LETTER of Facsimile

FAX #: 887-5708

To The Attention Of:

Ms. Julie Winiarski

From: Dr. Pete W. Kessler
August 9, 1994



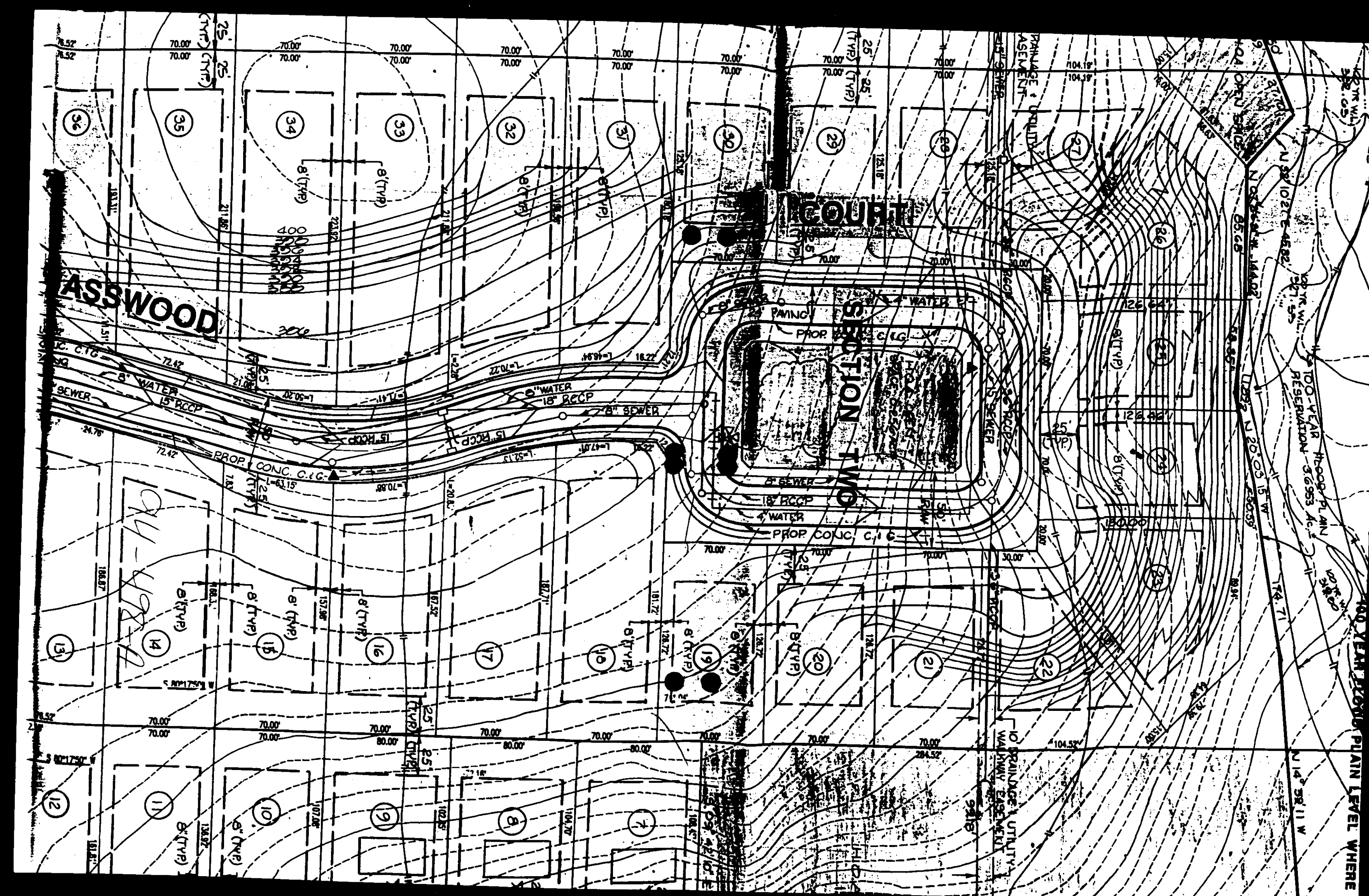
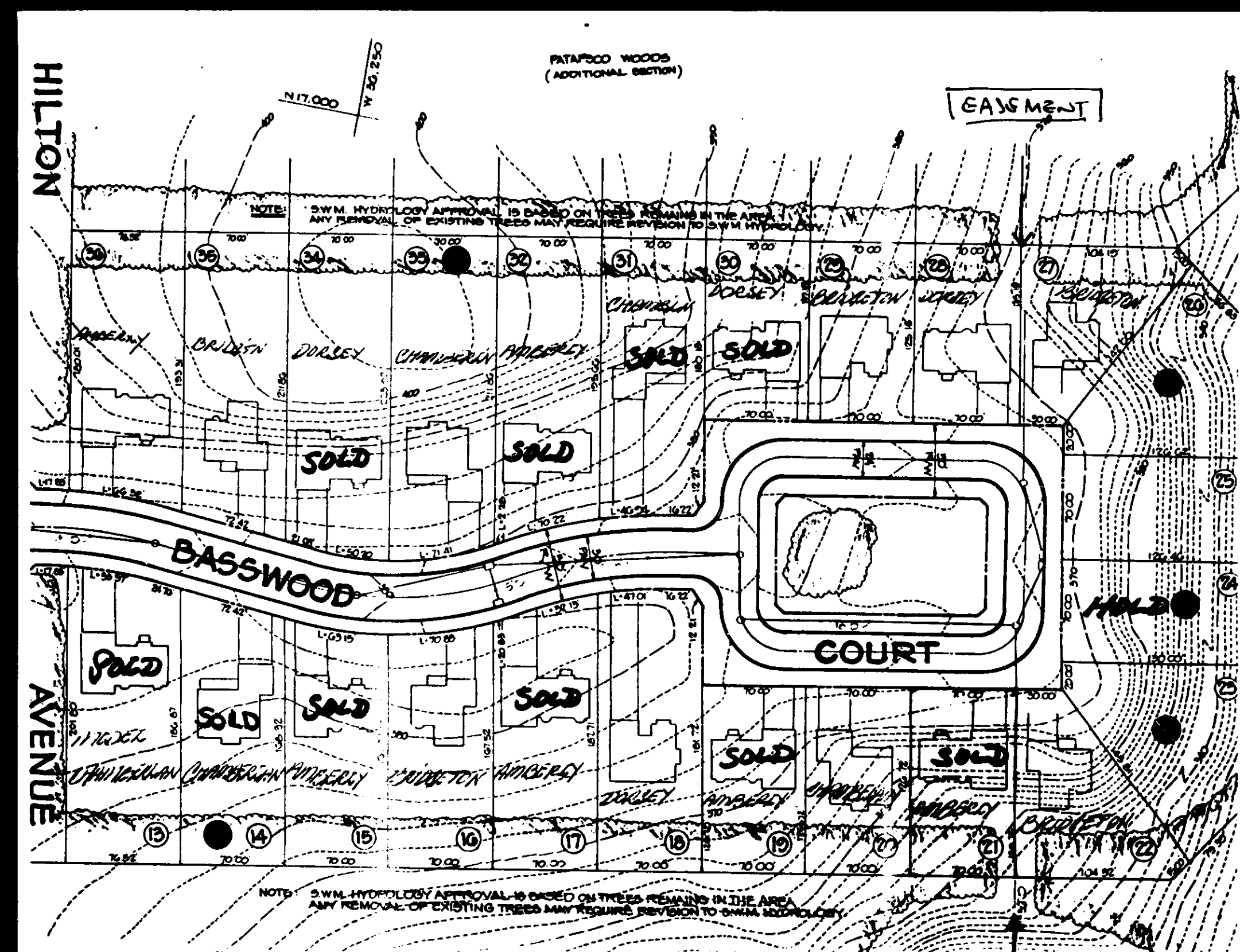
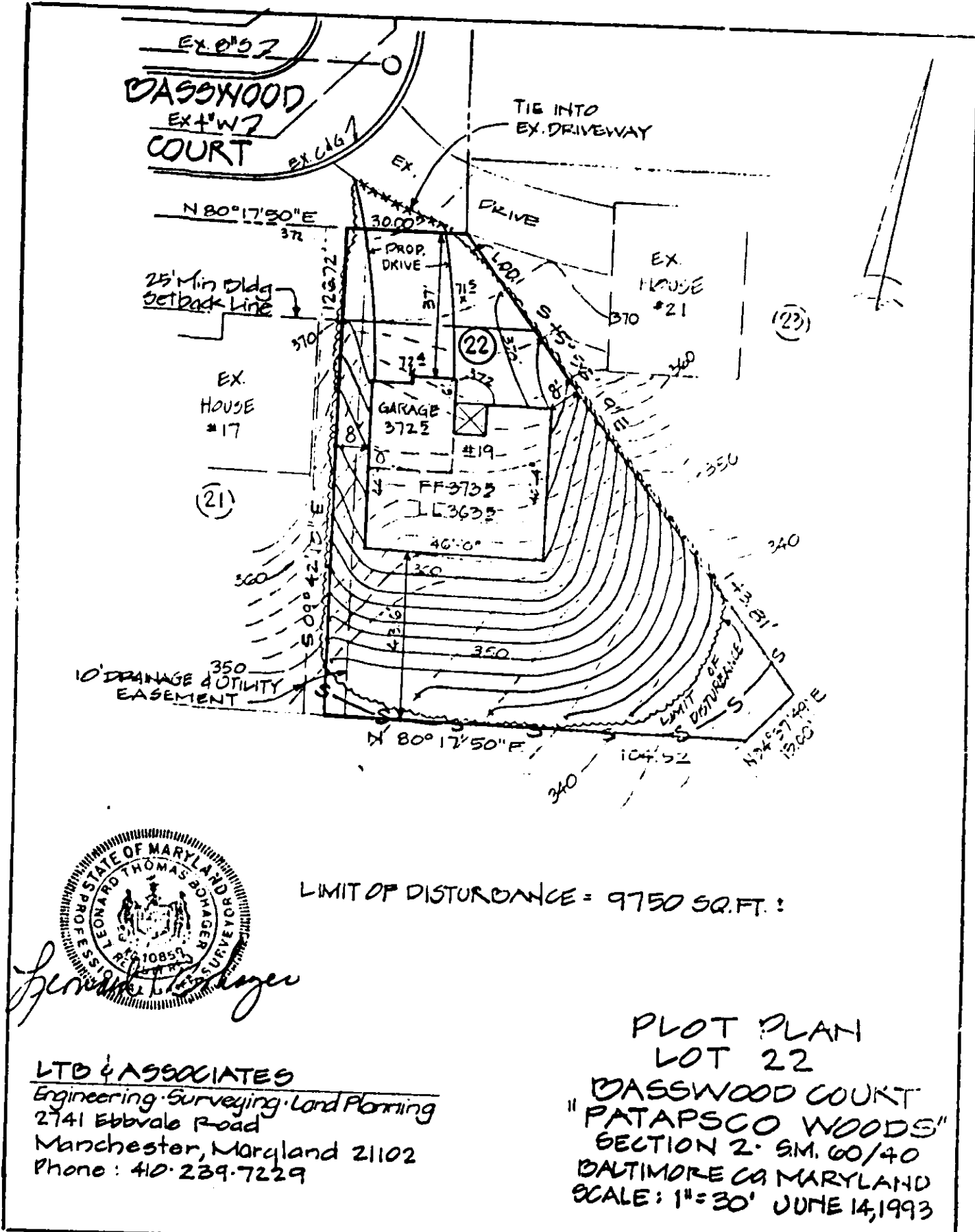
ROUTING - REQUEST
Please
☐ READ
☐ HANDLE
☐ APPROVE
and
☐ FORWARD
☐ RETURN
☐ KEEP OR DISCARD
☐ REVIEW WITH ME
Date _____
To: *Julie Winiarski*
From: *Dr. Pete W. Kessler*
Subject: *Case C-94-1087*
Date: *8/10/94*
Time: *2:55 PM*

September 28, 1994

Dear Mr. Kotroco,
Please find, enclosed, a copy of a letter sent to Mr. Jablon dated July 5, 1994. It will explain the chronology of my case to you. Any other pertinent documentation is available in my case file.
Thank you very much for your attention concerning this content matter.

Sincerely,

Dr. Pete W. Kessler
Dr. Pete W. Kessler



Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 28, 1994

Ms. Evelyn Kunoji
19 Baswood Court
Catonsville, Maryland 21228

RE: Case No. 94-498-A, Item No. 484
Petition for Administrative Variance
Petitioner: Evelyn Kunoji

Dear Ms. Kunoji:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 7, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Maryland Department of Transportation
State Highway Administration

Secretary
Hal Kassoff
Administrator

6-15-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: * 484 (MSK)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for DAVID N. RAMSEY, ACTING CHIEF
John Conestable, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2238 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 107 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 16, 1994

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 475, 476, 481, 482, 493, 484, 486 and 489.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long

Division Chief: Pat Keller

PK/JL:lw

ZAC.475/PZONE/ZAC1

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 6/21/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agency:

Re: Present:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

9. The Fire Marshall's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 481, 482, 483, 484,
485, 487, 489, 487 AND 481.

RECEIVED
JUN 17 1994
ZADM

REVIEWER: LT. ROBERT P. SAUERHAUD
Fire Marshal's Office, PHONE 887-4881, MS-1105F

cc: File

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

July 14, 1994

(410) 887-3353

Dr. Pete W. Kessler
17 Baswood Court
Catonsville, Maryland 21228-5070

Re: Case No. C-94-1087
19 Baswood Court
1st Election District

Dear Dr. Kessler:

I am in receipt of your letter dated July 5, 1994. As has been indicated to you by several employees in my office, you have the opportunity to request a special hearing for the above referenced property, for a fee of \$40.

If you choose not to pay the \$40 for the special hearing, you can write a letter to the zoning commissioner's office and state in the letter your objections. This letter will become part of the file and would be read at the time of the hearing.

If you have any further questions concerning this matter, please feel free to contact me at 887-3353.

Sincerely,

Arnold Jablon
Director

AJ/hek

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 16, 1994

NOTICE OF CASE NUMBER ASSIGNMENT

TO: Ms. Evelyn Kunoji
19 Baswood Court
Catonsville, Maryland 21228

Re: CASE NUMBER: 94-498-A (Item 484)
19 Baswood Court
S/S Baswood Court, 768.65' E of c/l Hilton Avenue
1st Election District - 1st Councilmanic
Petitioner: Evelyn Kunoji

Administrative Variance to permit an 8-foot window-to-lot line in lieu of 15 feet.

Please be advised that your petition for Administrative Zoning Variance has been assigned the above case number. Contact only with this office regarding the status of this case should reference the case number and be directed to 887-3353. This notice also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before June 20, 1994. The closing date (July 5, 1994) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

Arnold Jablon
Director

cc: Brian G. Macari

Printed with Soy-based Ink
on Recycled Paper

94-498
#484

Note to the Hearing Officer:

This petition is a violation case.
Normally, this office advises the petitioner to
proceed with a variance hearing for violations; however,
due to several circumstances, the inspector
advised to file administratively.

mtk 6/14/94

H.O. Neighbor who complained
(see violation) didn't see why he
had to pay \$400 for this
to go to hearing
KAC

TO: <u>Dr. K.</u>	TIME: <u>2pm</u>	DATE: <u>7/1</u>
WHILE YOU WERE OUT		
<input type="checkbox"/> M	<input type="checkbox"/> Urgent	<input type="checkbox"/> Telephone
<input type="checkbox"/> OF	<input type="checkbox"/> Return	<input type="checkbox"/> Call to
<input type="checkbox"/> PHONE	<input type="checkbox"/> Please	<input type="checkbox"/> See you
<input type="checkbox"/> () <u>3349</u>	<input type="checkbox"/> Will call	<input type="checkbox"/> Want to
MESSAGE: <u>He is near free!</u>		
OPERATOR: <u>mtk</u>		

SEPT 7, 1994

DEAR MR. JABLON,

I AM HEREBY REQUESTING A FURTHERMENT
FOR HEARING: THURSDAY SEPT. 22 AT 9 AM
CASE NO. 94-498-A.

IF IT WOULD BE POSSIBLE (DUE TO
SCHEDULING CONFLICTS AT MY OFFICE) COULD A HEARING
BE SCHEDULED ON A TUESDAY OR WEDNESDAY
MORNING?

Thanking you IN ADVANCE.

Dr. Pete Kessler
17 BASWOOD COURT
CATONSVILLE MD 21228

Tim:
O.K. for Wed 9/20/94
8:30 am - 10:06
All have been notified! Tim

8:30 am

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Basswood Court, 768.65' E
of the c/l of Hilton Avenue
(19 Basswood Court)
1st Election District
1st Councilmanic District
Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

AMENDED ORDER

WHEREAS, this matter came before the Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the owner of the subject property, Evelyn Kumoji, seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1.

This Petition was filed in response to a complaint registered with the Zoning Administration and Development Management (ZADM) office by the adjoining property owner, Dr. Pete W. Kessler, as to the close proximity of an existing window in the subject dwelling to his property. However, there being no requests for public hearing by the end of the day on the closing date of July 5, 1994, and no adverse comments submitted by any Baltimore County reviewing agency, a decision was rendered based upon the documentation contained in the case file. It should be noted that an inspection of the property by the Zoning Enforcement Division of ZADM determined that only the requested variance was necessary in order to rectify the matter. By Order issued July 11, 1994, the relief requested was granted, subject to the 30-day appeal period.

Subsequent to the issuance of said Order, this Office received a

Motion for Reconsideration from Dr. Kessler, by letter dated August 9, 1994, and in consideration thereof, a public hearing was scheduled to allow the Petitioner and the Protestant an opportunity to argue their respective positions.

Appearing at the hearing on behalf of the Petition were Evelyn Kumoji, property owner, and her builder, Brian Macari. Appearing in opposition to the request was Dr. Kessler, the adjoining property owner.

Testimony and evidence presented revealed that the subject property consists of 0.215 acres, more or less, zoned D.R. 2 and is improved with a two-story dwelling and attached garage which was completed approximately 10 months ago. The dwelling is situated approximately 8 feet from the adjoining property line of Dr. Kessler. Because the subject dwelling has windows on that side of the property facing Dr. Kessler's home, the requested variance is necessary as a 15-foot window-to-property line setback is required. Testimony revealed that at the time of her purchase, Ms. Kumoji was unaware of the required setback from the adjoining property. She assumed that because of the building permit application and review process, the subject dwelling met all Baltimore County regulations. Her builder, Mr. Brian Macari, argued that a practical difficulty and unreasonable hardship would result if strict compliance with the zoning regulations were required. He testified that due to the sloping of the property to the rear, the subject dwelling had to be situated in the location shown on Petitioner's Exhibit 1. It should also be noted that the Kessler home has no windows on the side facing the Kumoji home.

Appearing and testifying in opposition to the Petitioner's request was Dr. Kessler, the adjoining property owner. Dr. Kessler is vehemently opposed to the relief requested and submitted photographs depicting the

- 2 -

windows in question. He testified that he is able to look through these windows from the enclosed deck on the rear of his dwelling and also from the french doors on the back of his home. Furthermore, Dr. Kessler complained that the heat pump which is located on the west side of the subject dwelling is very noisy and is disruptive to his family.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. While I can empathize with Dr. Kessler's plight and his unhappiness with the location of the subject dwelling, it is noted that Dr. Kessler's home is located 5 feet from the adjoining property line with the subject property. Furthermore, as noted earlier in this opinion, there are no windows on the east side of Dr. Kessler's home facing the subject property. It has been established that special circumstances or conditions exist that are peculiar to the land or structure

- 3 -

which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of October, 1994 that the Order issued July 11, 1994 be and is hereby AMENDED; and,

IT IS FURTHER ORDERED that the Petition for Administrative Variance seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

cc: Ms. Evelyn Kumoji, 19 Basswood Court, Catonsville, Md. 21228
Dr. Pete W. Kessler, 17 Basswood Court, Catonsville, Md. 21228-5870
Mr. Brian Macari, 4 Basswood Court, Catonsville, Md. 21228
People's Counsel; Case File

- 4 -

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Basswood Court, 768.65' E
of the c/l of Hilton Avenue
(19 Basswood Court)
1st Election District
1st Councilmanic District
Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

WHEREAS, this matter came before the Deputy Zoning Commissioner as a Petition for Administrative Variance in which the owner of the property, Evelyn Kumoji, requested relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1. The Petition was filed in response to a complaint registered with the Zoning Administration and Development Management (ZADM) office by the adjoining property owner, Dr. Pete W. Kessler, as to the close proximity of an existing window to his property.

The property was posted the requisite 15-day period with a closing date of July 5, 1994. There being no requests for public hearing made known to the Zoning Commissioner's Office by the end of the day on the closing date, and no adverse comments submitted by any Baltimore County reviewing agency, a decision was rendered based upon the documentation contained in the case file. It should be noted that an inspection of the property by the Zoning Enforcement Division of ZADM determined that only the requested variance was necessary in order to rectify the matter. By Order issued July 11, 1994, the relief requested was granted, subject to the 30-day appeal period.

Subsequent to the issuance of said Order, this Office received a Motion for Reconsideration of the above-captioned matter from Dr. Kessler by letter dated August 9, 1994. Dr. Kessler references his past letters of complaint to the Zoning Administration office and apparently believes that a violation on the subject property still exists. In consideration of Dr. Kessler's request, it appears that a public hearing should be held to determine the appropriateness of the relief granted and resolve any remaining issues relative to the development on the subject property.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of August, 1994 that the Order issued July 11, 1994 be and is hereby AMENDED to rescind the relief granted in said Order; and,

IT IS FURTHER ORDERED that the Petition for Administrative Variance in the above-captioned matter be scheduled for a public hearing as early as the docket will permit, with the requisite posting and advertising of same. Notice of the hearing date, time and location shall be sent to all interested parties.

TMK:bjs

cc: Ms. Evelyn Kumoji, 19 Basswood Court, Catonsville, Md. 21228
Dr. Pete W. Kessler, 17 Basswood Court, Catonsville, Md. 21228-5870
Mr. Brian Macari, 4 Basswood Court, Catonsville, Md. 21228
People's Counsel; Case File

- 2 -

IN RE: PETITION FOR ADMIN. VARIANCE
S/S Basswood Court, 768.65' E
of the c/l of Hilton Avenue
(19 Basswood Court)
1st Election District
1st Councilmanic District
Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the owner of the property, Evelyn Kumoji. The Petitioner seeks relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the plan submitted into evidence as Petitioner's Exhibit 1.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variances would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the

B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of July, 1994 that the Petition for Administrative Variance seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section V.B.6.G of Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

TIMOTHY W. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

- 2 -

11

11

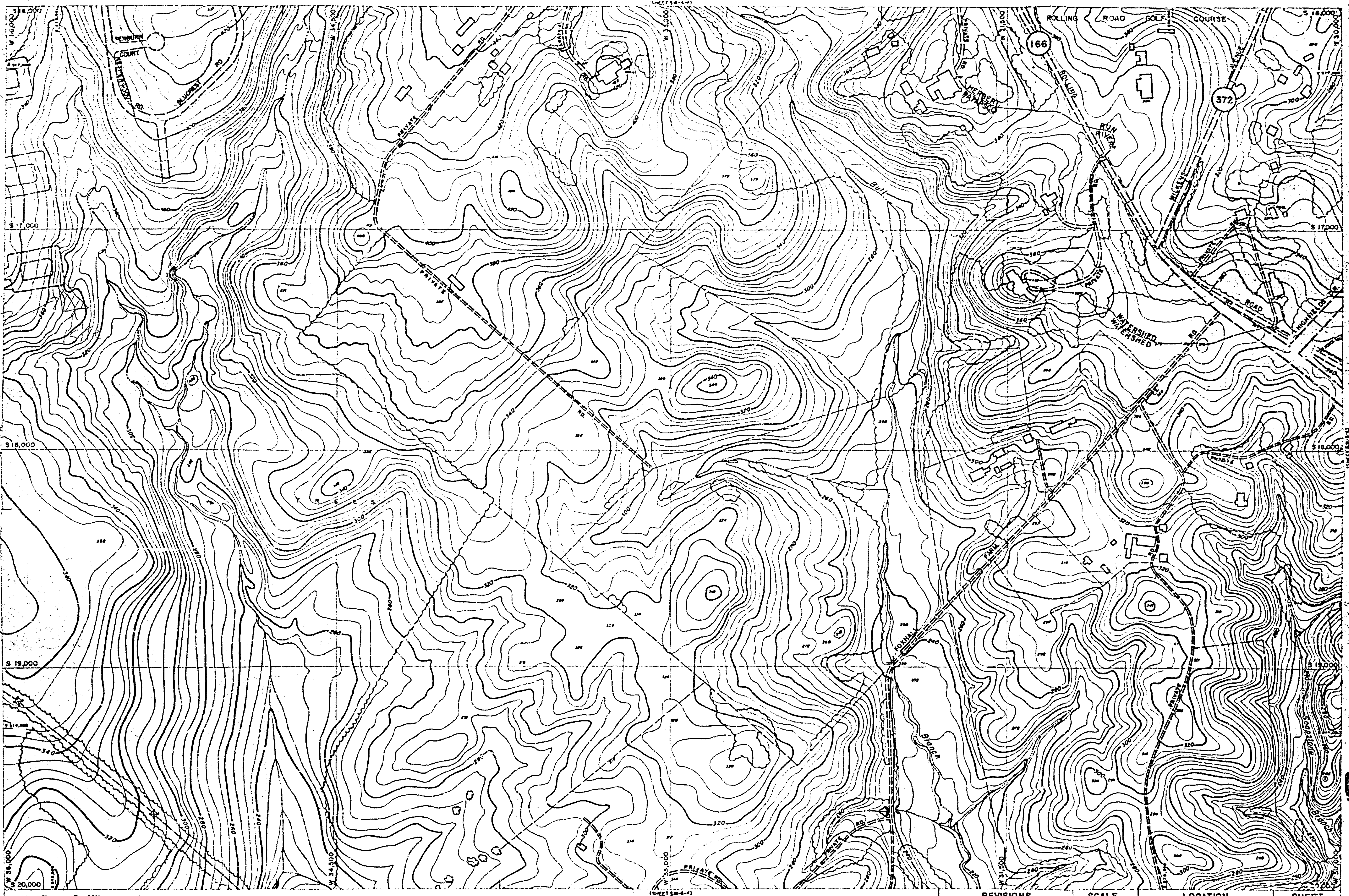
5'8"

1.5"

1"

7"

2"



H-SE G-SW
D-NE C-NW

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE			
302	3/6/85	1" = 200'	PATAPSCO STATE PARK VICINITY	54
Topography Compiled By Photogrammetric Methods AERO SERVICE CORPORATION-PHILADELPHIA, PA.		DATE OF PHOTOGRAPHY APRIL 1953	#484	

94-4498-A-864-42

Petitioner's Ex #3

Public Hearing for eight foot window to property line setback
for 19 Basswood Court

We present the following in addition to the previous submittal:

I Existing window to property line variance is really 4', not 14'

1. As the attached drawing shows, the developer requested and was granted 6' building to property line setbacks for the house. Why would one ask for 6' setbacks for the building and any greater distance for the windows which are in the walls of the building.

2. One must conclude that (as was pointed out by an associate at the zoning department) the '1' in 14 was placed in error during recording and that a '4' foot window setback variance was requested and granted.

3. The seller of the lot, Diversified Homes, believed and represented that a '4' foot window setback existed on the lot.

II Impossible house placement on lot.

The combination of steepness of grade (2.1) and poor subsoil conditions (road compaction was bearing) absolutely precluded house from being placed any further from property line. Please see attached drawing.

III The package was previously reviewed.

As is normal and required by the County the full set of house plans along with a complete plot plan showing the house siting were submitted to ZADM for review and were approved for construction.

[Additionally, we would like to point out that we believe the previous decision regarding this matter to be valid based on due process (i.e. complainants letter was received three full days after the closing date posted on the property and the decision issued forth after this fact).]

IV Severe hardship and practical difficulty.

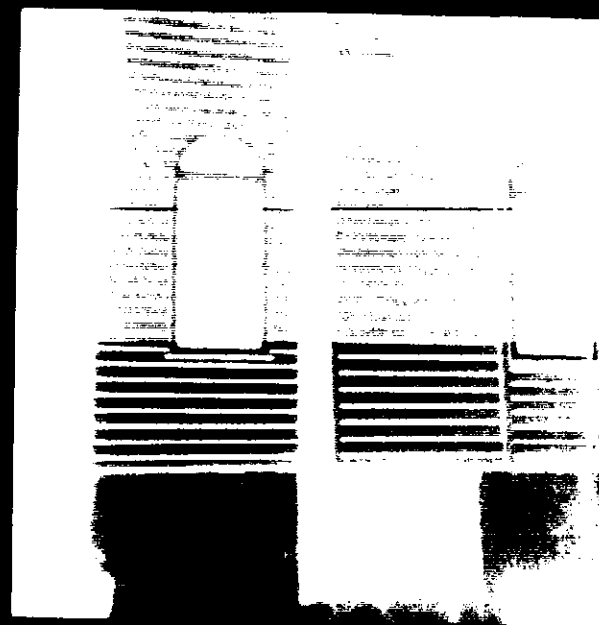
Had the variance not been granted the required remedy would represent significant hardship and practical difficulty to the resident as the majority of the windows on that side of the home are the only windows for the third bedroom in the house. These, of course, are legally required for emergency egress.

V Existing zoning calls for a minimum of 18 feet between facing windows of lot 21 and 22. There are no windows in the complainants dwelling which face the windows in question, and the closest window on the back of the house is 22 feet away, meeting the spirit of the rule.

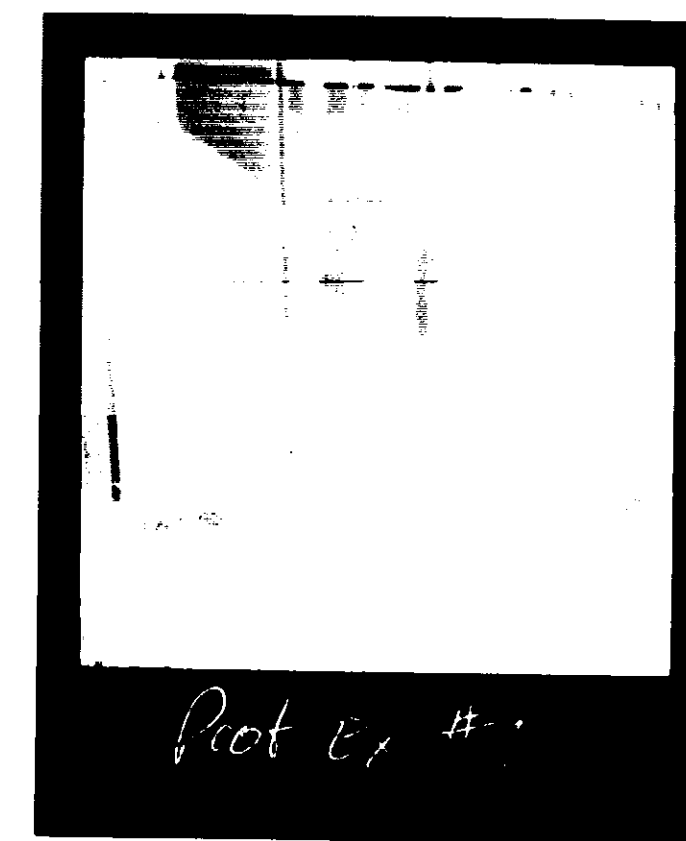
Respectfully, Evelyn Kumoji

Pet Ex #4

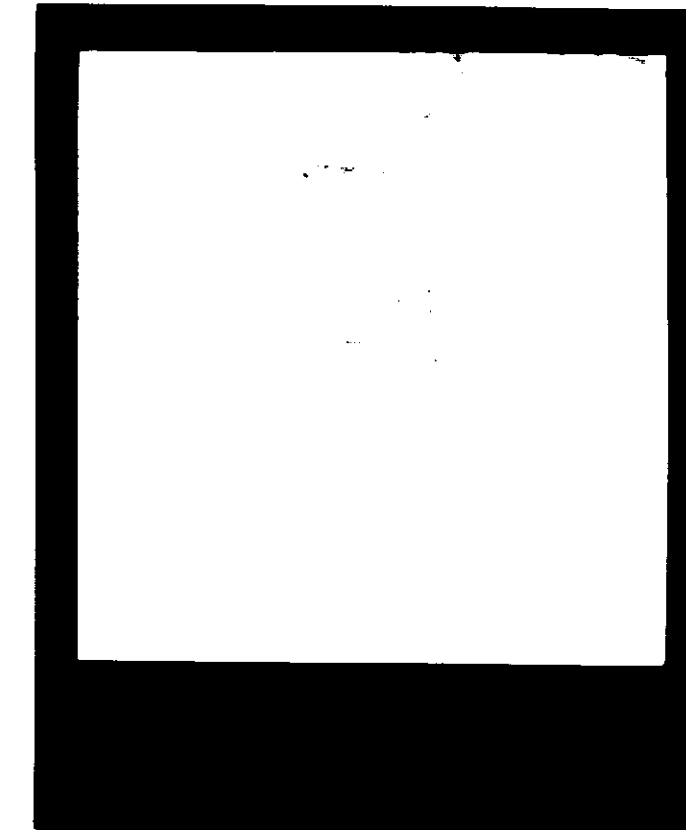
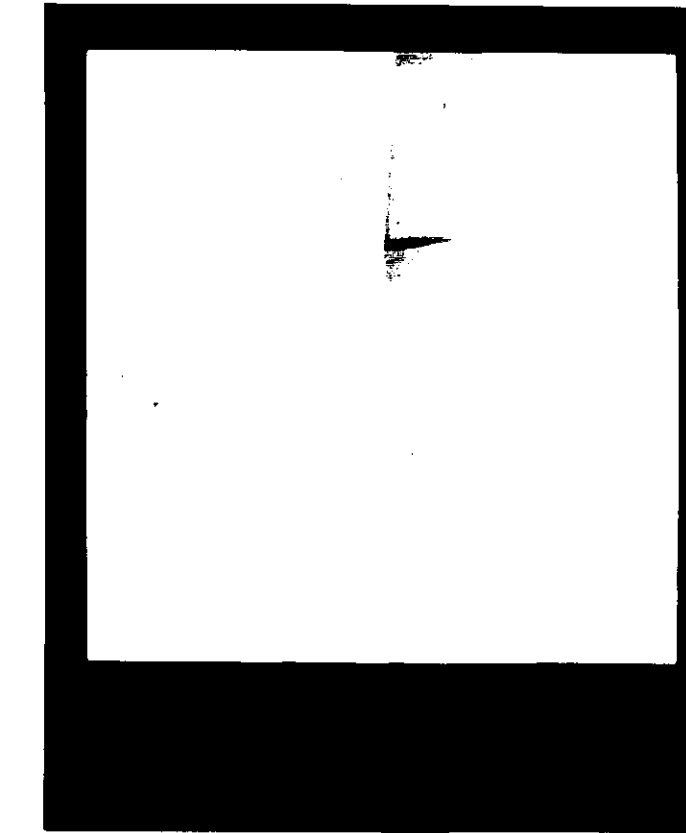
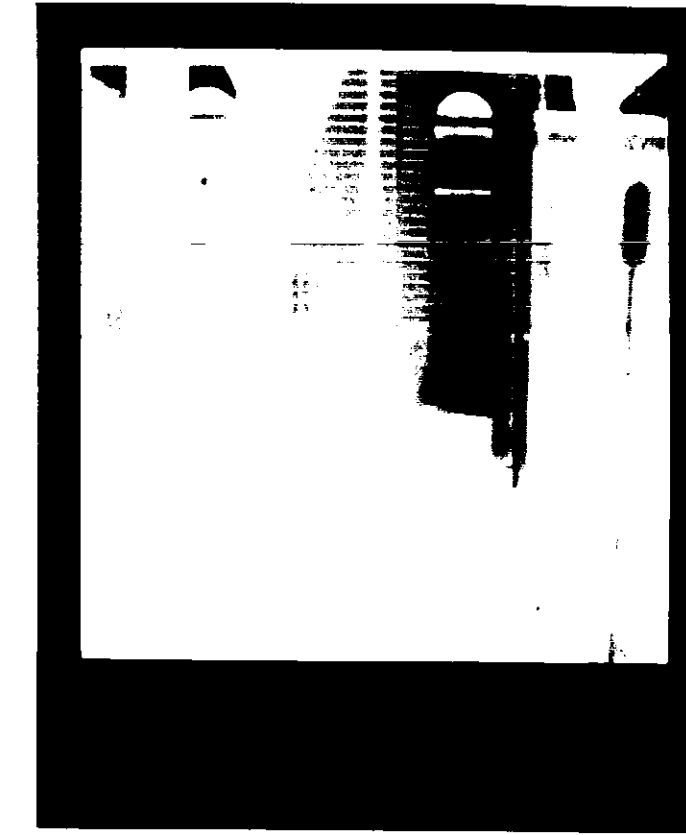
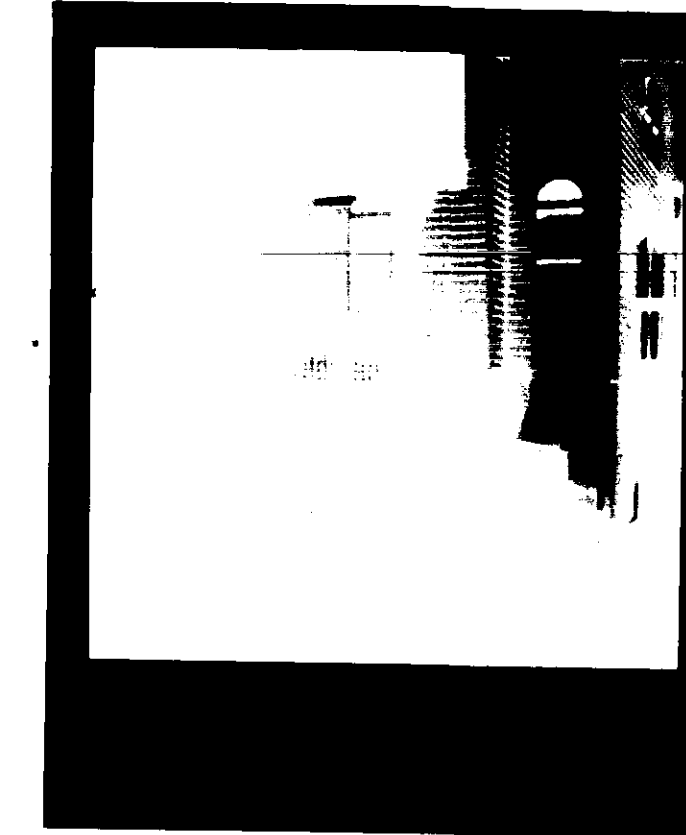
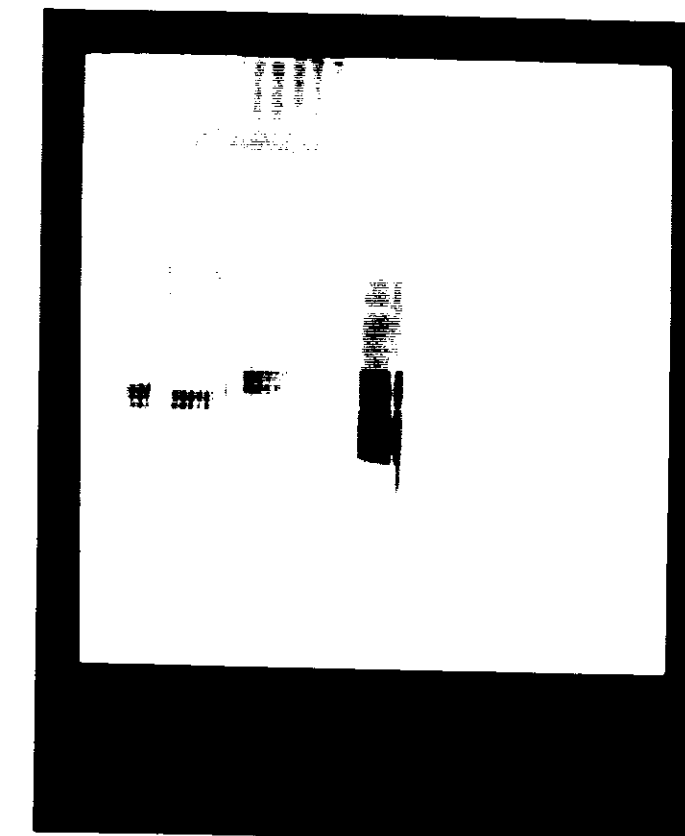
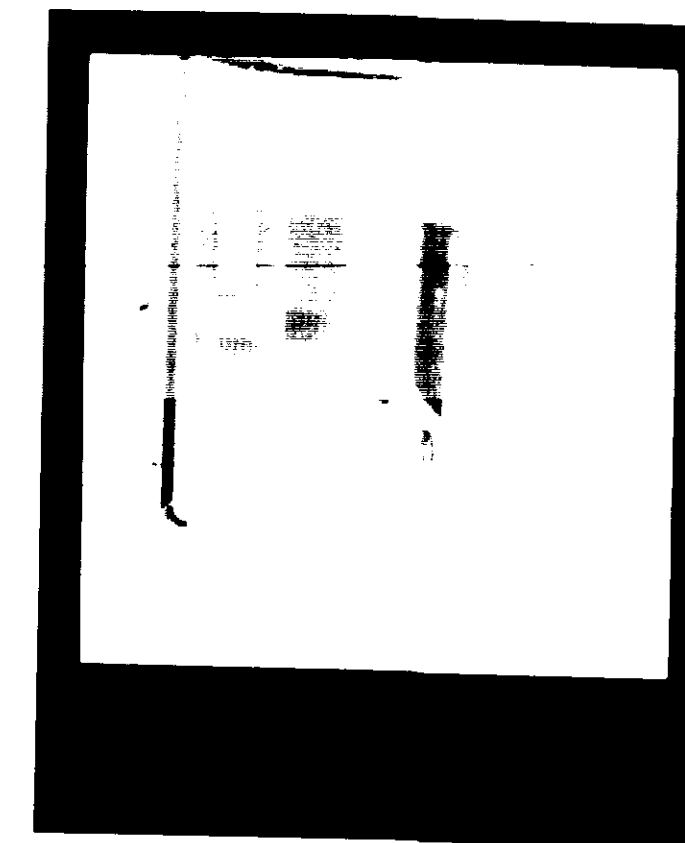
94-498



Petitioner's
Exhibits 1-9
(9 photos)
Case # 94-498-A

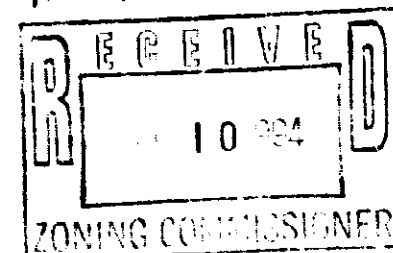


Pet Ex #1



July 5, 1994

Mr. Arnold Jablon
Zoning Commissioner
ZADM
111 W. Chesapeake Ave.
Room 109
Towson, MD 21204



Dear Mr. Jablon,
I am writing concerning a definite violation regarding my residence and its adjoining property.
The case dates back to July 29, 1993 when I spoke personally to Mr. Al Hill (Baltimore Co. Housing Inspector) concerning violations to my property. Mr. Hill advised me to contact ZADM which I did on July 30, 1993, August 16, 1993, September 15, 1993 and November 19, 1993. Finally, I received an acknowledgment notice on November 16, 1993. The case (C-94-1087) was assigned to Mr. Kevin Connor (Baltimore Co. Zoning Inspector) and I met with him, at my home, January 31, 1994. Months later on April 14, 1994 I phoned ZADM for status on my case. I spoke with Mr. L. Wasilewski and he stated that he could not find my file or case. On April 18, 1994 Mr. Connor telephoned me and said he would 'look into it'. April 25, 1994 a letter was sent to me (copy) from Mr. Connor to Mr. Brian Macari (the builder of the adjoining property) stating that he was in violation and was required to file a variance. A copy of that letter is available to you, according to Mr. Connor, contained in my case file. I would like to meet with you concerning these recognized violations and have them rectified as soon as possible. Thank you for your attention. I am awaiting your earliest reply.

Sincerely,

Dr. Pete W. Kessler
Dr. Pete W. Kessler
17 Basswood Court
Catonsville, MD 21228-5870
(410) 788-7259

NOTE: original case no.-
C-94-1087
updated case no.-
94-198A



08 10 94 11:05 CESSIA S PATAH

8/10/94
TO TK - filed
in chief of communications

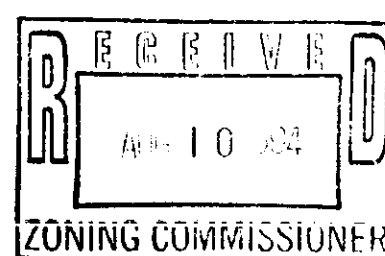
COVER LETTER of Facsimile

FAX #: 887-5708

To The Attention Of:

Ms. Julie Winiarski

From: Dr. Pete W. Kessler
August 9, 1994



ROUTING - REQUEST
Please
☐ READ
☐ HANDLE
☐ APPROVE
and
☐ FORWARD
☐ RETURN
☐ KEEP OR DISCARD
☐ REVIEW WITH ME
Date _____
To: *Julie Winiarski*
From: *Dr. Pete W. Kessler*
Subject: *Case C-94-1087*
Date: *8/10/94*
Time: *2:55 PM*

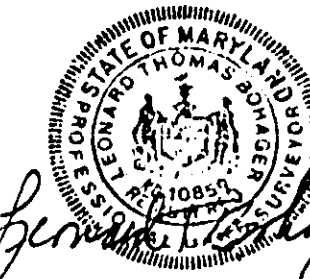
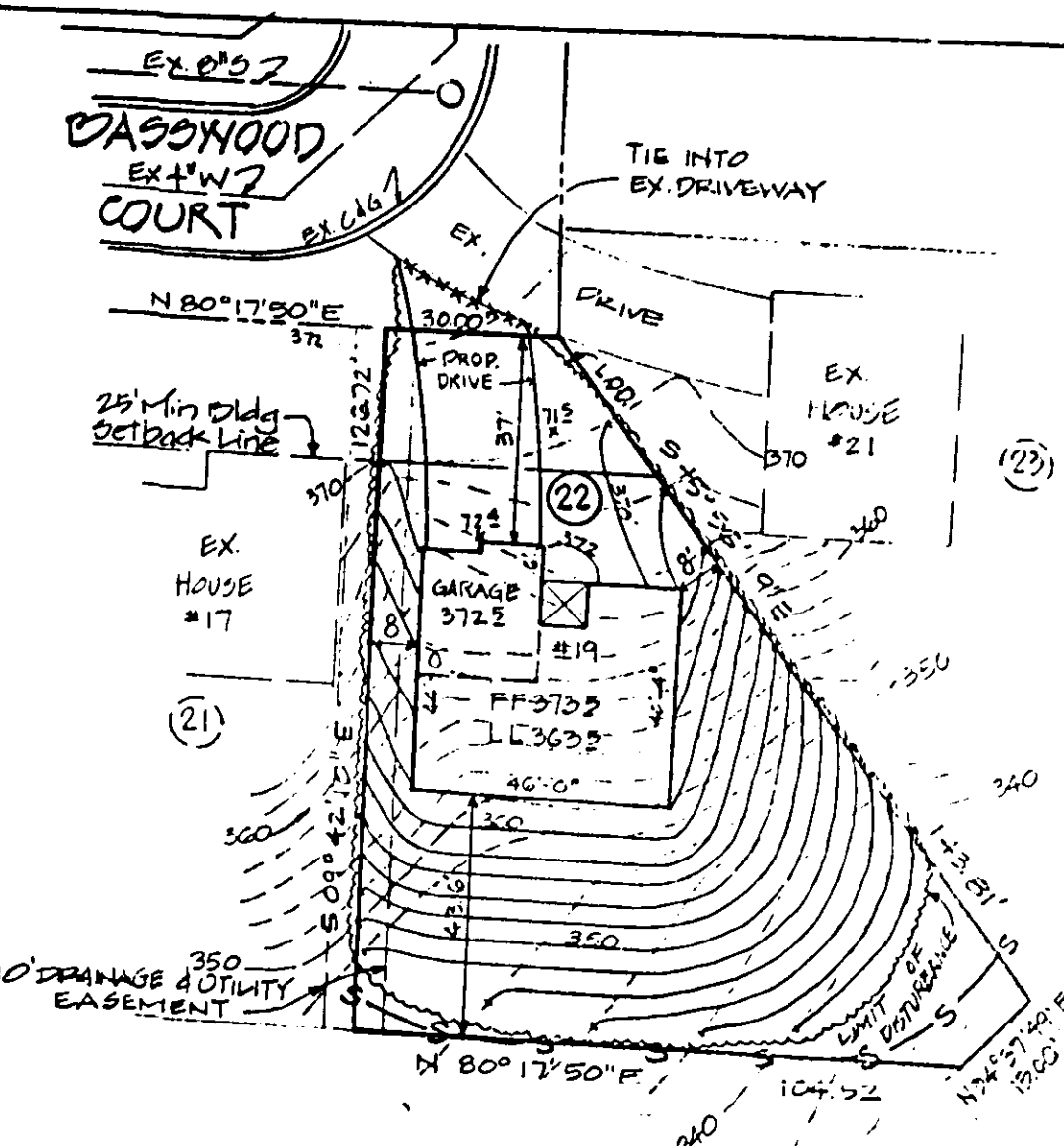
September 28, 1994

Dear Mr. Kotroco,

Please find, enclosed, a copy of a letter sent to Mr. Jablon dated July 5, 1994. It will explain the chronology of my case to you. Any other pertinent documentation is available in my case file.
Thank you very much for your attention concerning this content matter.

Sincerely,

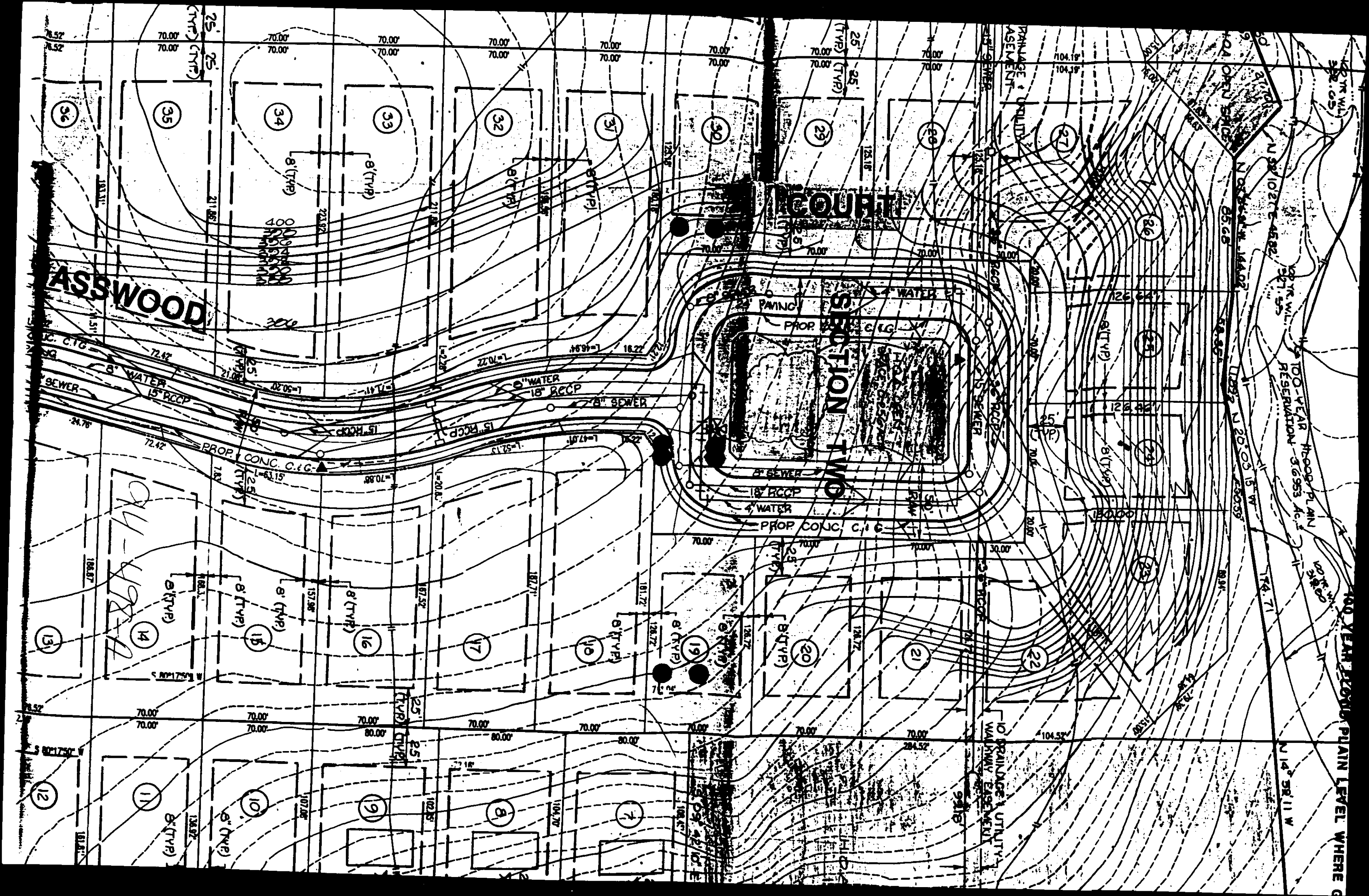
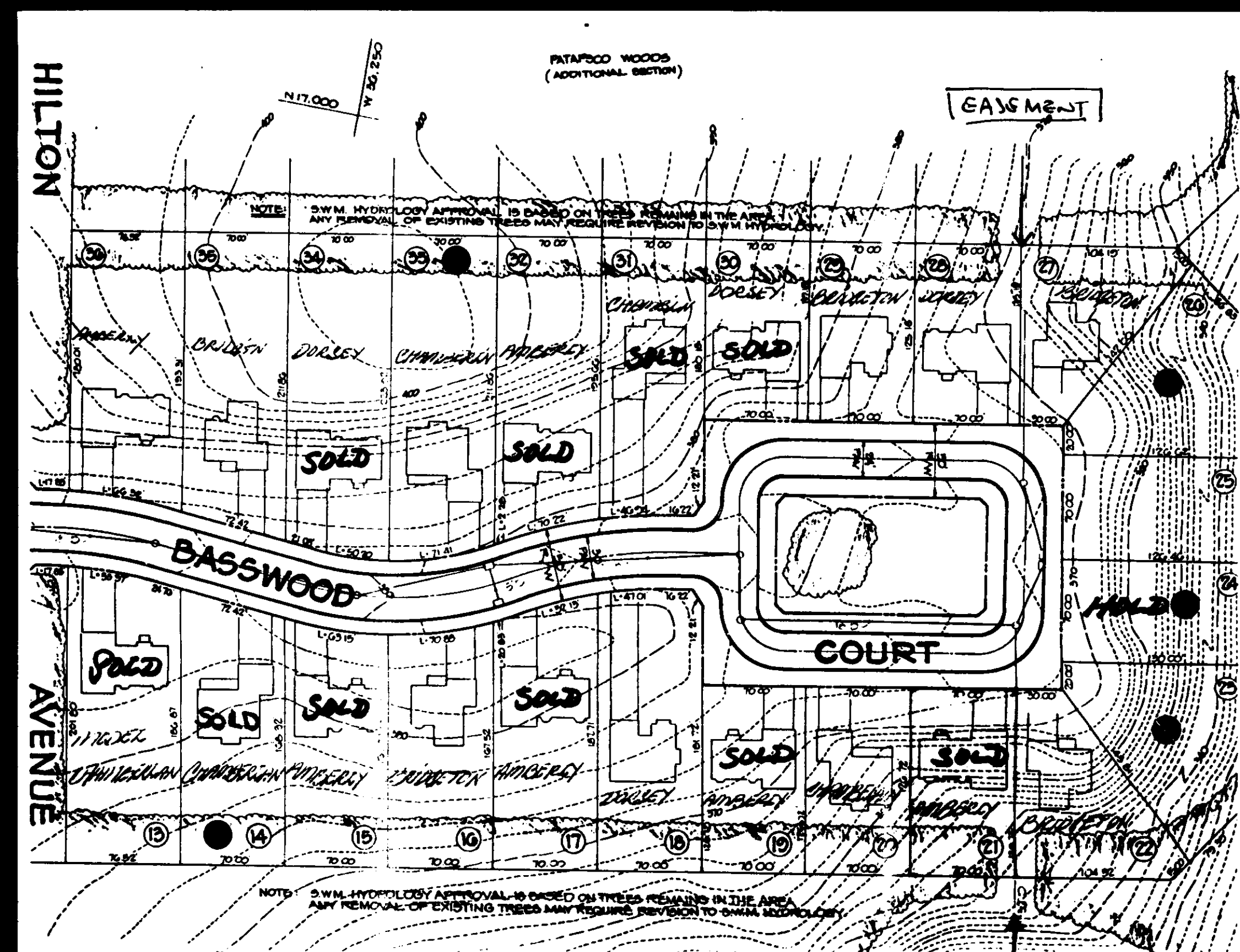
Dr. Pete W. Kessler
Dr. Pete W. Kessler



LIMIT OF DISTURBANCE = 9750 SQ. FT.

LTD & ASSOCIATES
Engineering, Surveying, Land Planning
2741 Ebbvale Road
Manchester, Maryland 21102
Phone: 410-239-7229

PLOT PLAN
LOT 22
"BASSWOOD COURT"
"PATAPSCO WOODS"
SECTION 2, SM. 60/40
BALTIMORE CO MARYLAND
SCALE: 1"=20' JUNE 14, 1993



Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 28, 1994

Ms. Evelyn Kunoji
19 Baswood Court
Catonsville, Maryland 21228

RE: Case No. 94-498-A, Item No. 484
Petition for Administrative Variance
Petitioner: Evelyn Kunoji

Dear Ms. Kunoji:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 7, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Maryland Department of Transportation
State Highway Administration

Secretary
Hal Kassoff
Administrator

6-15-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: * 484 (MSK)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for DAVID N. RAMSEY, ACTING CHIEF
John Conestable, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2238 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 107 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: June 16, 1994

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 475, 476, 481, 482, 493, 484, 486 and 489.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey W. Long

Division Chief: Pat Keller

PK/JL:lw

ZAC.475/PZONE/ZAC1

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 6/21/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agency:

Re: Petition:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

9. The Fire Marshall's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 481, 482, 483, 484, 486, 487, 489, 487 AND 491.

RECEIVED
JUN 17 1994
ZADM

REVIEWER: LT. ROBERT P. SAUERHAUD
Fire Marshal's Office, PHONE 887-4881, MS-1105F

cc: File

Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

July 14, 1994

(410) 887-3353

Dr. Pete W. Kessler
17 Baswood Court
Catonsville, Maryland 21228-5070

Re: Case No. C-94-1087
19 Baswood Court
1st Election District

Dear Dr. Kessler:

I am in receipt of your letter dated July 5, 1994. As has been indicated to you by several employees in my office, you have the opportunity to request a special hearing for the above referenced property, for a fee of \$40.

If you choose not to pay the \$40 for the special hearing, you can write a letter to the zoning commissioner's office and state in the letter your objections. This letter will become part of the file and would be read at the time of the hearing.

If you have any further questions concerning this matter, please feel free to contact me at 887-3353.

Sincerely,

Arnold Jablon
Director

AJ/hek

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

June 16, 1994

NOTICE OF CASE NUMBER ASSIGNMENT

TO: Ms. Evelyn Kunoji
19 Baswood Court
Catonsville, Maryland 21228

Re: CASE NUMBER: 94-498-A (Item 484)
19 Baswood Court
S/S Baswood Court, 768.65' E of c/l Hilton Avenue
1st Election District - 1st Councilmanic
Petitioner: Evelyn Kunoji

Administrative Variance to permit an 8-foot window-to-lot line in lieu of 15 feet.

Please be advised that your petition for Administrative Zoning Variance has been assigned the above case number. Contact only with this office regarding the status of this case should reference the case number and be directed to 887-3353. This notice also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before June 20, 1994. The closing date (July 5, 1994) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by Order of the Commissioner), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

Arnold Jablon
Director

cc: Brian G. Macari

Printed with Soy-based Ink
on Recycled Paper

94-498
#484

Note to the Hearing Officer:

This petition is a violation case.
Normally, this office advises the petitioner to
proceed with a variance hearing for violations; however,
due to several circumstances, the inspector
advised to file administratively.

mtk 6/16/94

H.O. Neighbor who complained
(see violation) didn't see why he
had to pay \$400 for this
to go to hearing
KAC

TO: <u>Dr. K.</u>	TIME: <u>2pm</u>	DATE: <u>7/1</u>
WHILE YOU WERE OUT		
<input type="checkbox"/> M	<input type="checkbox"/> Urgent	<input type="checkbox"/> Telephone
<input type="checkbox"/> OF	<input type="checkbox"/> Return	<input type="checkbox"/> Call to
<input type="checkbox"/> PHONE	<input type="checkbox"/> Please	<input type="checkbox"/> See you
<input type="checkbox"/> () <u>3349</u>	<input type="checkbox"/> Will call	<input type="checkbox"/> Want to
MESSAGE: <u>He is near free!</u>		
OPERATOR: <u>mtk</u>		

SEPT 7, 1994

DEAR MR. JABLON,

I AM HEREBY REQUESTING A FURTHERMENT
FOR HEARING: THURSDAY SEPT. 22 AT 9 AM
CASE NO. 94-498-A.

IF IT WOULD BE POSSIBLE (DUE TO
SCHEDULING CONFLICTS AT MY OFFICE) COULD A HEARING
BE SCHEDULED ON A TUESDAY OR WEDNESDAY
MORNING?

Thanking you IN ADVANCE.

Dr. Pete Kessler
17 BASWOOD COURT
CATONSVILLE MD 21228

Tim:
O.K. for Wed 9/20/94
8:30 am - Rm 106
All have been notified! Tim
8-30 am
788-1195
788-7454

Baltimore County Government
Zoning Commission
Office of Planning and Zoning

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

July 11, 1994 (410) 887-4386

Ms. Evelyn Kumoji
19 Basswood Court
Catonsville, Maryland 21228

RE: PETITION FOR ADMINISTRATIVE VARIANCE
S/S Basswood Court, 768.65' E of the c/l of Hilton Avenue
(1st Election District - 1st Councilmanic District)
Evelyn Kumoji - Petitioner
Case No. 94-498-A

Dear Ms. Kumoji:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration Office at 887-3391.

Very truly yours,
Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

THK:bbs

cc: Mr. Brian Macari
1 Basswood Court, Catonsville, Md. 21228

Dr. Pete Kessler
1 Basswood Court, Catonsville, Md. 21228

People's Counsel

cc: File

94-498
Petition for Administrative Variance
to the Zoning Commissioner of Baltimore County
for the property located at 19 Basswood Court
which is presently zoned R-2

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 504 (V.B. 6 b, c, d) to permit an 8' window to lot line in lieu of 15'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)
Home is already constructed, use and occupancy permit has been issued. I, the undersigned, currently reside in the home. Removing windows would represent a huge cost which I cannot afford. *Before house was built previous lot owner indicated that a 4' window to property line variance existed.*

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee
(Type or Print Name)
Signature
Address
City State Zipcode
Attorney for Petitioner
(Type or Print Name)
Signature
Address
City State Zipcode
Legal Owner(s)
Evelyn Kumoji
(Type or Print Name)
Signature
(Type or Print Name)
Signature
19 Basswood Court 788-1197
Catonsville MD 21228
City State Zipcode
Brian G. Macari
Name
4 Basswood Ct. 410-719-9344
Address Phone No

A Public Hearing having been requested and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 6th day of July 1994, that the subject matter of this petition be set for a public hearing, to be held at the Zoning Commission of Baltimore County, in two newspapers of general circulation throughout Baltimore County, and that the property be required.

Zoning Commissioner of Baltimore County

REVIEWED BY: *MDK* DATE: 6/7/94
ESTIMATED POSTING DATE: 6/9/94
Printed with Soybean Ink on Recycled Paper
ITEM #: 484

Affidavit in support of
Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) were competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) do(es) presently reside at 19 Basswood Court

Address
Catonsville MD 21228
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address: (indicate hardship or practical difficulty)

-placement of the house further back on the lot to accommodate greater distance to property line was impossible due to slope severity.

-due to permit application/review process, we believed plans were in conformance with Baltimore County regulations.

-the windows in question are behind the plane of the adjacent house (#17 Basswood).

-10 of the 24 homes on the subject street have variances for similar setbacks (4' or 6' window to property line).

-the adjacent house (#17) has a 4' window to property line variance but has no windows on that side.

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Evelyn Kumoji
Evelyn Kumoji
Signature
(Type or Print Name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6th day of July, 1994, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Evelyn Kumoji
Evelyn Kumoji

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

6/6/94
Notary Public
My Commission Expires 3/1/98

94-498
Zoning Description For #19 Basswood Court
Election District 1, Councilmanic District 1
Baltimore County, Maryland
May 18, 1994

Beginning at a point on the south side of Basswood Court, 50 foot wide right-of-way, at a distance of 768.65 feet east of the centerline of Hilton Avenue, 60 foot wide right-of-way. Being Lot #22 Phase One, Section Two in the subdivision of Patapsco Woods as recorded in Baltimore County Plat Book S.M. 60 at folio 40., containing 9365 sq. ft. or 0.215 of an acre of land, more or less.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st Date of Posting: 6/9/94
Posted for: Variance
Petitioner: Evelyn Kumoji
Location of property: 19 Basswood Ct., 5/8 E of Hilton Ave.
Location of Sign: Front, side, or rear of property
Remarks: To permit an 8' window to lot line in lieu of 15' required.
Posted by: *MDK* Date of return: 6/25/94
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/26, 1994.
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 8/25, 1994.

A. J. Henrichson
A. J. HENRICHSON
LEGAL AD. - TOWSON

Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

94-498
receipt
Date: 6/7/94
Account: ROP-1-6150
Number
Taken In By: MDK
Item Number: 484
Kumoji, Evelyn - 19 Basswood Ct
010-Res Variance - \$50.00
080-1 sign posting - \$35.00
\$ 85.00

0140100122M1:HRC
B6 C311:50AM06-07-94 \$85.00
Please Make Checks Payable To: Baltimore County

Cashier Validation

TO: PUTNEY PUBLISHING COMPANY
August 25, 1994 Issue - Jeffersonian

Please forward billing to:

Ms. Evelyn Kumoji
19 Basswood Court
Catonsville, Maryland 21228
788-1197

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-498-A (Item 484)
19 Basswood Court
S/S Basswood Court, 768.65' E of c/l of Hilton Avenue
1st Election District - 1st Councilmanic
Petitioner(s): Evelyn Kumoji
HEARING: THURSDAY, SEPTEMBER 22, 1994 at 9:00 a.m. in Room 118, Old Courthouse.

Variance to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling.

LAMARCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

AUG 1 1994 (410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Arnold Jablon
Arnold Jablon
Director

cc: Evelyn Kumoji
Dr. Pete Kessler

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IN RE: PETITION FOR ADMIN. VARIANCE
S/S Basswood Court, 768.65' E
of the c/l of Hilton Avenue
(19 Basswood Court)
1st Election District
1st Councilmanic District
Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

AMENDED ORDER

WHEREAS, this matter came before the Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the owner of the subject property, Evelyn Kumoji, seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1.

This Petition was filed in response to a complaint registered with the Zoning Administration and Development Management (ZADM) office by the adjoining property owner, Dr. Pete W. Kessler, as to the close proximity of an existing window in the subject dwelling to his property. However, there being no requests for public hearing by the end of the day on the closing date of July 5, 1994, and no adverse comments submitted by any Baltimore County reviewing agency, a decision was rendered based upon the documentation contained in the case file. It should be noted that an inspection of the property by the Zoning Enforcement Division of ZADM determined that only the requested variance was necessary in order to rectify the matter. By Order issued July 11, 1994, the relief requested was granted, subject to the 30-day appeal period.

Subsequent to the issuance of said Order, this Office received a

Motion for Reconsideration from Dr. Kessler, by letter dated August 9, 1994, and in consideration thereof, a public hearing was scheduled to allow the Petitioner and the Protestant an opportunity to argue their respective positions.

Appearing at the hearing on behalf of the Petition were Evelyn Kumoji, property owner, and her builder, Brian Macari. Appearing in opposition to the request was Dr. Kessler, the adjoining property owner.

Testimony and evidence presented revealed that the subject property consists of 0.215 acres, more or less, zoned D.R. 2 and is improved with a two-story dwelling and attached garage which was completed approximately 10 months ago. The dwelling is situated approximately 8 feet from the adjoining property line of Dr. Kessler. Because the subject dwelling has windows on that side of the property facing Dr. Kessler's home, the requested variance is necessary as a 15-foot window-to-property line setback is required. Testimony revealed that at the time of her purchase, Ms. Kumoji was unaware of the required setback from the adjoining property. She assumed that because of the building permit application and review process, the subject dwelling met all Baltimore County regulations. Her builder, Mr. Brian Macari, argued that a practical difficulty and unreasonable hardship would result if strict compliance with the zoning regulations were required. He testified that due to the sloping of the property to the rear, the subject dwelling had to be situated in the location shown on Petitioner's Exhibit 1. It should also be noted that the Kessler home has no windows on the side facing the Kumoji home.

Appearing and testifying in opposition to the Petitioner's request was Dr. Kessler, the adjoining property owner. Dr. Kessler is vehemently opposed to the relief requested and submitted photographs depicting the

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windows in question. He testified that he is able to look through these windows from the enclosed deck on the rear of his dwelling and also from the french doors on the back of his home. Furthermore, Dr. Kessler complained that the heat pump which is located on the west side of the subject dwelling is very noisy and is disruptive to his family.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. While I can empathize with Dr. Kessler's plight and his unhappiness with the location of the subject dwelling, it is noted that Dr. Kessler's home is located 5 feet from the adjoining property line with the subject property. Furthermore, as noted earlier in this opinion, there are no windows on the east side of Dr. Kessler's home facing the subject property. It has been established that special circumstances or conditions exist that are peculiar to the land or structure

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which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare and is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of October, 1994 that the Order issued July 11, 1994 be and is hereby AMENDED; and,

IT IS FURTHER ORDERED that the Petition for Administrative Variance seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

cc: Ms. Evelyn Kumoji, 19 Basswood Court, Catonsville, Md. 21228
Dr. Pete W. Kessler, 17 Basswood Court, Catonsville, Md. 21228-5870
Mr. Brian Macari, 4 Basswood Court, Catonsville, Md. 21228
People's Counsel; Case File

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IN RE: PETITION FOR ADMIN. VARIANCE
S/S Basswood Court, 768.65' E
of the c/l of Hilton Avenue
(19 Basswood Court)
1st Election District
1st Councilmanic District
Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

WHEREAS, this matter came before the Deputy Zoning Commissioner as a Petition for Administrative Variance in which the owner of the property, Evelyn Kumoji, requested relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the site plan submitted into evidence as Petitioner's Exhibit 1. The Petition was filed in response to a complaint registered with the Zoning Administration and Development Management (ZADM) office by the adjoining property owner, Dr. Pete W. Kessler, as to the close proximity of an existing window to his property.

The property was posted the requisite 15-day period with a closing date of July 5, 1994. There being no requests for public hearing made known to the Zoning Commissioner's Office by the end of the day on the closing date, and no adverse comments submitted by any Baltimore County reviewing agency, a decision was rendered based upon the documentation contained in the case file. It should be noted that an inspection of the property by the Zoning Enforcement Division of ZADM determined that only the requested variance was necessary in order to rectify the matter. By Order issued July 11, 1994, the relief requested was granted, subject to the 30-day appeal period.

Subsequent to the issuance of said Order, this Office received a Motion for Reconsideration of the above-captioned matter from Dr. Kessler by letter dated August 9, 1994. Dr. Kessler references his past letters of complaint to the Zoning Administration office and apparently believes that a violation on the subject property still exists. In consideration of Dr. Kessler's request, it appears that a public hearing should be held to determine the appropriateness of the relief granted and resolve any remaining issues relative to the development on the subject property.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of August, 1994 that the Order issued July 11, 1994 be and is hereby AMENDED to rescind the relief granted in said Order; and,

IT IS FURTHER ORDERED that the Petition for Administrative Variance in the above-captioned matter be scheduled for a public hearing as early as the docket will permit, with the requisite posting and advertising of same. Notice of the hearing date, time and location shall be sent to all interested parties.

TMK:bjs

cc: Ms. Evelyn Kumoji, 19 Basswood Court, Catonsville, Md. 21228
Dr. Pete W. Kessler, 17 Basswood Court, Catonsville, Md. 21228-5870
Mr. Brian Macari, 4 Basswood Court, Catonsville, Md. 21228
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Evelyn Kumoji
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-498-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the owner of the property, Evelyn Kumoji. The Petitioner seeks relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling in accordance with the plan submitted into evidence as Petitioner's Exhibit 1.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variances would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the

B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of July, 1994 that the Petition for Administrative Variance seeking relief from Section 504 of the Baltimore County Zoning Regulations (B.C.Z.R.) (Section V.B.6.G of Comprehensive Manual of Development Policies (C.M.D.P.)) to permit a window to lot line setback of 8 feet in lieu of the minimum required 15 feet for an existing dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

cc: Ms. Evelyn Kumoji, 19 Basswood Court, Catonsville, Md. 21228
Dr. Pete W. Kessler, 17 Basswood Court, Catonsville, Md. 21228-5870
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